

Nevada Silver Haired Legislative Forum



Legislative Counsel Bureau
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NEVADA SILVER HAired LEGISLATIVE FORUM

BULLETIN NO. 03-18

JULY 2002

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SUMMARY OF RECOMMENDATIONS

This summary presents the recommendations approved by the Nevada Silver Haired Legislative Forum (*Nevada Revised Statutes* 427A.320). The Forum submits these proposals to the 72nd Session of the Nevada Legislature.

Affordable Housing

1. Include a statement in the report for the Nevada Silver Haired Legislative Forum to encourage Nevada's Housing Division, Department of Business and Industry, to develop programs that create an economic incentive for builders to produce low-income housing for senior citizens similar to the Low-Income Housing Tax Credit Program.

Care Giving for Senior Citizens

2. Urge the Legislative Commission and Governor Kenny C. Guinn to request legislation to amend Section 449.037 of *Nevada Revised Statutes* (NRS) to require paid in-home nonmedical service care providers to the elderly to receive accreditation through a nationally recognized company such as Accreditation Commission for Health Care, Inc. The accreditation requirements would ensure that there are written policies and procedures for paid nonmedical service care providers, and that caregivers receive the necessary training and background checks.
3. Include a statement in the report for the Nevada Silver Haired Legislative Forum recommending that Governor Kenny C. Guinn establish a task force to study and develop a training program for facility and residential caregivers to the elderly or disabled. A training program would augment *Nevada Administrative Code* 449.196 by specifying a standard of education that caregivers would receive.

Elder Abuse, Neglect, and Exploitation

4. Urge the Legislative Commission and Governor Kenny C. Guinn to request legislation to require nursing homes to meet a minimum standard of nursing hours per resident per day. The proposed requirement of 3.2 nursing staff hours would include Registered Nurses, Licensed Practical Nurse/Licensed Vocational Nurses, and Certified Nursing Assistants.
5. Urge the Legislative Commission and Governor Kenny C. Guinn to request legislation to amend subsection 2 of NRS 200.5092 and subsection 4(b) of NRS 41.1395 to modify the definition of "exploitation" to more effectively protect Nevada's senior population from financial exploitation.

6. Urge the Legislative Commission and Governor Kenny C. Guinn to request legislation to amend the provisions of NRS 433A.160 to provide an emergency admission exemption of patients diagnosed with dementia in mental health facilities. Admission is not to exceed 72 hours.

Funding of Services for Senior Citizens

7. Include a statement in the report for the Nevada Silver Haired Legislative Forum requesting the Legislative Commission and Governor Kenny C. Guinn review funding allocations available through the Tobacco Master Settlement Agreement to restore senior citizen programs and services that have been previously terminated.
8. Include a statement in the report for the Nevada Silver Haired Legislative Forum recommending that additional funds be budgeted to the Bureau of Licensure and Certification, Department of Human Resources, enabling the Bureau to increase the number of investigators in the field monitoring the quality of care being provided to senior citizens in nursing homes.
9. Urge the Legislative Commission and Governor Kenny C. Guinn to request legislation to impose a one-half percent senior citizen health excise tax on food sales from “limited-service eating places” to provide additional funding to support a prescription drug benefit under Nevada’s Senior Prescription Drug Program (Senior Rx) and other senior citizen programs.

Geriatric Education

10. Include a statement in the report for the Nevada Silver Haired Legislative Forum urging a requirement for all health care professionals to take geriatric training. In addition, the Forum recommends that geriatric training be included as a component of continuing education curricula of practicing physicians and nurses.

Public Utilities

11. Urge the Legislative Commission and Governor Kenny C. Guinn to request legislation to amend NRS 703.030 changing the effective date from October 1, 2003, to March 1, 2003. This change would increase from three to five the number of members of the Public Utilities Commission of Nevada (PUCN) seven months sooner than the law currently contemplates. In addition, this proposal would change the qualifications of members sooner than the law currently contemplates.
12. Urge the Legislative Commission and Governor Kenny C. Guinn to request legislation to amend the provisions of NRS 703.030 to prohibit the appointment of a person to the PUCN if that person has a conflict of interest at the time of the appointment. In addition, any person appointed to the PUCN shall be required to

take an oath declaring that his or her appointment does not constitute, nor will it result in a conflict of interest.

13. Urge the Legislative Commission and Governor Kenny C. Guinn to request legislation to amend NRS 703.110 to require that if a majority of the PUCN commissioners are disqualified from hearing a case before the PUCN, the decision on that case may be postponed until the Governor appoints another commissioner or commissioners.
14. Include a statement in the report for the Nevada Silver Haired Legislative Forum to Governor Kenny C. Guinn urging that the electrical power industry in Nevada not be deregulated.

Medical Malpractice Insurance

15. Include a statement in the report for the Nevada Silver Haired Legislative Forum urging the Nevada Legislature to continue to study the issue of medical malpractice and to take appropriate action to resolve this important issue in Nevada.
16. Include a statement in the report for the Nevada Silver Haired Legislative Forum urging the Legislature to reform tort actions to address the current medical malpractice insurance problem facing health care providers in Nevada. Include a statement of support of the tort reform provisions of legislation as in Assembly Bill 17 sponsored by Assemblyman John W. Marvel in the 2001 Legislative Session (this bill was not enacted).

National Silver Haired Congress

17. Send a letter on behalf of the Nevada Silver Haired Legislative Forum to the National Silver Haired Congress expressing support for the top ten resolutions of the National Silver Haired Congress.

Prescription Drug Benefit

18. Include a statement in the report for the Nevada Silver Haired Legislative Forum recommending the Nevada Legislature send a resolution to the United States Congress urging them to take necessary action to amend Medicare to add a prescription drug benefit for all Medicare recipients.

Services for Senior Citizens

19. Send a letter on behalf of the Nevada Silver Haired Legislative Forum to the Task Force for the Fund for a Healthy Nevada (NRS 439.625) in support of the work of the Office of Geriatric Medicine, Chronic Illness, and Disability, Sanford Center for Aging.

- 20. Include a statement in the report for the Nevada Silver Haired Legislative Forum recommending additional funding for the University of Nevada, School of Medicine, Reno, the Community College and the Nevada State College to allow for the hiring of additional faculty dedicated to teaching geriatrics.**
- 21. Urge Governor Kenny C. Guinn to request legislation to amend Assembly Bill 474 (Chapter 538, *Statutes of Nevada 1999*) expanding the Senior Rx program to include the following health care services: vision care, dental care, hearing care, durable medical equipment, and medication management services.**
- 22. Include a statement in the report for the Nevada Silver Haired Legislative Forum encouraging nonprofit agencies to seek grant assistance for organizations that offer independent living services to senior citizens. Examples of these services include transportation services, household chores, minor home repairs, and yard work. Such grants should be contingent on the provision that those programs become self-funded (through private/public partnerships) and sustainable.**

**REPORT TO THE 72ND SESSION OF THE NEVADA LEGISLATURE
BY THE NEVADA SILVER HAIRED LEGISLATIVE FORUM**

I. INTRODUCTION

The Nevada Silver Haired Legislative Forum was created during the 1997 Legislative Session with the enactment of Senate Bill 489 (Chapter 560, *Statutes of Nevada 1997*) to identify and act upon issues of importance to aging persons. This legislation, as amended by Assembly Bill 195 (Chapter 588, *Statutes of Nevada 2001*), provides that the Forum submit a report containing recommendations for legislative action to the Legislative Commission and the Governor before July 1 of each even-numbered year. (See Appendix A)

The Legislative Commission appointed 20 forum members, and as of July 1, 2002, there were five vacant positions. In addition, Nevada's four representatives to the National Silver Haired Congress serve as ex officio members of the Forum. The following representatives served as members on the Forum:

Nevada Silver Haired Legislative Forum Members

Mimi Rodden	Clark Senate District 1
Alice Adams	Clark Senate District 2
Vacant	Clark Senate District 2
Thelma Clark	Clark Senate District 3
Bonnie Bryan	Clark Senate District 3
Hazel Geran	Clark Senate District 4
Robert McCune	Clark Senate District 5
Vacant	Clark Senate District 5
Evelyn Cannestra	Clark Senate District 6
Doris Balducci	Clark Senate District 7
Harriet Trudell	Clark Senate District 7
Vacant	Clark Senate District 8
Vacant	Clark Senate District 8
Margaret Spooner	Capital Senate District
Virgil M. Getto	Central Nevada Senate District
Charles H. Knight	Northern Nevada Senate District
Phyllis Jackson	Washoe Senate District 1
Shirley Lawson	Washoe Senate District 2
Thornton Audrain	Washoe Senate District 3
Vacant	Washoe Senate District 4
Robert Pohlman	Western Nevada Senate District

Ex Officio Forum Members

Dalton Wellman, Silver Senator	National Silver Haired Congress
Patricia Wilson, Silver Senator	National Silver Haired Congress
Ruth Mills, Silver Representative, District 1	National Silver Haired Congress
Don Fuller, Silver Representative, District 2	National Silver Haired Congress

Legislative Counsel Bureau (LCB) staff services for the Forum were provided by Vance A. Hughey, Principal Research Analyst, of the Research Division; Diane Thornton, Senior Research Analyst, Research Division; Kimberly A. Morgan, Chief Deputy Legislative Counsel, Legal Division; Roxanne Duer, Principal Research Secretary, of the Research Division; and Sally Trotter, Senior Research Secretary, Research Division.

II. PUBLIC HEARINGS

The Forum held four meetings in different areas of the state, including a work session, during the 2002 Interim. One meeting was held in Las Vegas, one in Elko, and the other two were held in Carson City. These public hearings were conducted through simultaneous videoconferences between meeting rooms at the Legislative Building in Carson City, the Grant Sawyer State Office Building in Las Vegas, and the Great Basin College in Elko.

The first meeting of the Forum was held on February 4, 2002, in Las Vegas. Legislative Counsel Bureau Staff provided an overview of the statutory provisions that govern the Nevada Silver Haired Legislative Forum and discussed Senate Bill 462 (Chapter 503, *Statutes of Nevada 2001*), and Assembly Bill 195 (Chapter 588, *Statutes of Nevada 2001*). (See Appendices B and C.)

Mary Liveratti, Administrator, Aging Services Division, Department of Human Resources, explained why A.B. 195 was introduced. Ms. Liveratti discussed several provisions of the bill that addressed the membership of the Forum and the duties of the Forum concerning money received and expenses incurred.

Ruth Mills gave a presentation to the Forum regarding the National Silver Haired Congress and explained that the mission of the Congress is to serve as a grassroots advocate on issues of importance to senior citizens. She explained that the National Silver Haired Congress is designed to closely mirror the structure of the United States Congress.

The members of the Forum elected the following officers: Robert McCune, President; Virgil M. Getto, Vice President; Evelyn Cannestra, Secretary; and Thornton Audrain, Treasurer. Issues to be addressed by the Forum were discussed, which include: utility/energy bills, resources available for long-term care and long-term care advocacy, prevention of elder abuse, availability of information about programs for senior citizens, transportation/services for senior citizens, geriatric services, and grandparents' assistance.

Assemblywoman Kathy McClain, Program Director of the Clark County Senior Advocate Program, indicated the Forum could call upon her and the Clark County Senior Advocate Program for assistance in undertaking its tasks.

The Forum's second meeting was held in Carson City on March 15, 2002. Robert McCune, Forum President, led a discussion of operating procedures, and Thornton Audrain, Forum Treasurer, reported on the status of the Forum's budget. The members voted to have each member of the Forum work individually to solicit gifts, grants, or other sources of income to supplement the current budget and to help defray the operating costs of the Forum. Legislative Counsel Bureau staff reviewed the bylaws that had been used by the Forum in previous years and compared them to existing statutory provisions (see Appendix D).

Dr. Lawrence Weiss, representing the Sanford Center on Aging, University of Nevada, Reno, gave a presentation on the programs and activities of the Sanford Center. He agreed to provide specific recommendations to the Forum for consideration. Dr. Weiss's presentation was followed by a staff report on eligibility standards for various senior citizen programs.

President McCune gave a brief overview of the hearing conducted by the Commissioner of Insurance on the availability of medical malpractice insurance in this state and noted that Governor Guinn had established the Nevada Essential Insurance Association to address this problem.

Deborah Cormier, Grants and Projects Analyst Supervisor, Aging Services Division, Department of Human Resources, explained to the Forum the major initiatives of the Division for 2002, including the Nevada Strategic Plan for Healthcare. She also provided the Forum with a list of Fiscal Year 2001 independent living grants that are administered by the Division. The Forum discussed various public policy issues.

Shirley Lawson reported on a town hall meeting that she held on March 8, 2002. Ruth Mills presented priority issues that were recently adopted by the National Silver Haired Congress, and Thelma Clark submitted a proposal to amend provisions of Nevada law regarding public utilities.

Assemblywoman Kathy McClain offered the services of the Senior Advocate Office and indicated she would provide additional information to the Forum. Virginia Cain, former Forum President, addressed the Forum and discussed the need to develop specific recommendations to the problems and issues affecting senior citizens that have been identified. She suggested the costs of providing convalescent care need to be addressed.

The third meeting of the Forum was held on April 29, 2002, at the Great Basin College in Elko with videoconferencing to Carson City and Las Vegas. Mark A. Morrow, a partner with the Nursing Home Justice Center in Las Vegas, provided information to the Forum regarding the problem of elder abuse in nursing homes. He recommended that Nevada enact legislation to regulate staffing ratios for nursing care to ensure quality of care of residents of nursing homes.

Sandie Durgin, Supervisor, Abuse and Neglect Detail, Las Vegas Metropolitan Police Department, discussed the function of the Abuse and Neglect Detail in addressing problems of abuse and neglect of senior citizens. She proposed that the definition of “exploitation” as used in certain sections of Nevada law be changed to more effectively protect senior citizens from financial exploitation.

Gilda Johnstone, Chief of Elder Rights, Aging Services Division, Department of Human Resources, provided an overview of the role of her office in protecting the rights of senior citizens. Sally Ramm, Elder Rights Attorney, Aging Services Division, Department of Human Resources, discussed the problems of senior citizens who are not living in institutional facilities. She focused her presentation on the topics of exploitation, guardianship, and mental health.

Assemblywoman Kathy McClain provided background information on the Clark County Senior Advocate Program. In addition, she made several recommendations for consideration at the May 23, 2002, work session.

At its final meeting and work session, the Forum adopted 22 recommendations for consideration by the 2003 Legislature. The recommendations address the following major topics:

- Affordable housing;
- Care giving for senior citizens;
- Elder abuse, neglect, and exploitation;
- Funding of services for senior citizens;
- Geriatric education;
- Public utilities;
- Medical malpractice insurance;
- The National Silver Haired Congress;
- Prescription drug benefits; and
- Services for senior citizens.

Of the recommendations, 17 were approved as submitted, five were approved with changes, and two were not approved.

Additionally, Charles L. Horsey III, Administrator, Housing Division, Department of Business and Industry, provided testimony on the Low-Income Housing Tax Credit Program of Nevada's Housing Division.

Further, Tammy Sisson, Administrator, Lend-a-Hand Senior Services, discussed accreditation for paid nonmedical in-home care service providers, and Wendy Simons, Residential Care Facility Administrator, provided information on developing a training program for facility and residential caregivers.

Mr. McCune presented stationary for the Forum, which was approved by the members. Discussion on fundraising ensued in which Mr. McCune presented the Forum with two versions of a draft fundraising letter. The Forum members decided to revise the letter and develop a brochure that details information on the Forum. Members expressed an interest in establishing a fundraising committee and a communications committee.

In this document, the Forum has attempted to present its findings and recommendations in concise form. Data was gathered during this study and much of the information was provided in exhibits that became part of the minutes of the Forum's meetings. All supporting documents and minutes of meetings are on file with the Research Library of the LCB.

III. HISTORY OF THE NEVADA SILVER HAired LEGISLATIVE FORUM

In 1997, with the passage of Senate Bill 489, the Nevada Legislature established the original Silver Haired Legislative Forum. Chapter 427A of *Nevada Revised Statutes* (NRS) was amended requiring the Aging Services Division to create the Forum. The mission of the Forum was to discuss and act upon issues of importance to aging persons. The Forum was structured to have 21 members appointed by the Governor based on the residency within each senatorial district. Of the 21 members, no more than 11 were to be of one political party. Further, the Forum was allowed to meet and hold public hearings at least one day during each of the months of June, July, and August in even-numbered years. The bill also set forth provisions for reimbursements and appropriated \$5,000 for Forum use over the biennium.

In the 2001 Legislative Session, Assembly Bill 195 was enacted. Assembly Bill 195 made various changes to the provisions of Chapter 427A regarding the Forum. Under the provisions of A.B.195, the Forum consists of the same number of members as the Nevada State Senate and each of the members of the Forum are nominated by one of the state Senators. The Legislative Commission then appoints the Forum members. The bill was amended empowering the Forum to hold three public meetings in different areas of the state and an additional meeting to prepare a report containing recommendations to be submitted to the Legislative Commission and the Governor. The staff of the Legislative Counsel Bureau is to provide the Forum with assistance so it may carry out its duties. The bill also authorized legislators to donate up to \$500 from their unspent campaign funds for the expenses of the Forum.

In addition, during the 2001 Legislative Session, with Senate Bill 462 (Chapter 503, *Statutes of Nevada*), the Legislature appropriated \$5,000 for the Forum's expenses. Any remaining balance of the appropriation reverts to the State General Fund on June 30, 2003.

IV. BACKGROUND

A. Introduction

The Nevada Silver Haired Legislative Forum is designed to replicate the structure of the National Silver Haired Congress (NSHC). The mission statement for both organizations is to examine issues of importance to senior citizens. Whereas the National Congress focuses on broader national issues that affect senior citizens, the Forum primarily focuses on senior issues at the state level.

B. National Silver Haired Congress

The NSHC is an initiative that promotes support of issues involving older adults and intergenerational concerns. The NSHC is patterned after the U.S. Congress in its organizational structure. Senators and Representatives of the NSHC match their state's federal congressional districts. To serve as a state NSHC delegate, a person must be at least 60 years old and either be elected by the silver haired organization in their state or appointed by his or her U.S. Congressman or U.S. Senator. Nevada's delegates are appointed by Nevada's Congressional Delegation.

The NSHC meets annually in Washington, D.C. to explore and debate important matters affecting elders. They discuss alternative approaches and solutions to problems and share them with other senior groups and individuals.

During the NSHC session, each delegate is assigned to at least one of the following committees: Social Service Programs, Civil/Criminal Justice, Finance and Taxation, Health, Commerce/Consumer Affairs and General. Silver Senators and Representatives submit topics of current interest to elders to their committees, and after all resolutions are reviewed and voted on, the top ten are selected by vote to be the issues that delegates will take back to their respective States to work on during the interim.

C. National Silver Haired Congress 2001 Session

The fifth session of the National Silver Haired Congress took place in Washington, D.C. from March 2, 2001, through March 7, 2001. The 2001 Session of the NSHC adopted the following resolutions, in priority order, as their issues for the coming year:

- The NSHC urges the U.S. Congress to ensure the long-term financial viability of Social Security and restore public confidence in the future of the program by employing a combination of strategies to ensure the future of the Social Security fund, strongly oppose privatization of the Social Security system, and abide by the rule of law to remove the Social Security Trust Fund from the general budget.

- The NSHC urges the U.S. Congress require pharmaceutical companies to sell drugs to Medicare recipients at the same rate given to all other federal programs.
- The NSHC urges the U.S. Congress to eliminate the Federal Income Tax from Social Security benefits over a three-year period, commencing at age 72 years.
- The NSHC urges the U.S. Congress to add a voluntary (optional) and affordable prescription drug benefit to Medicare.
- The NSHC urges the U.S. Congress to increase funding for Alzheimer’s Disease research until the dreadful disease is conquered.
- The NSHC urges the U.S. Congress to mandate that all students in all medical schools and other professional health care training take at least six hours of geriatric education and ensure that geriatrics is a component of practicing physician’s continuing education.
- The NSHC urges the U.S. Congress to totally repeal the Government Pension Offset and that Social Security spousal benefits decreased by two-thirds or more be restored to rectify their situation.
- The NSHC urges the U.S. Congress to provide a separate line item income adjustment for long-term care insurance.
- The NSHC urges the U.S. Congress to require and fund criminal background checks and drug testing prior to employment in all care facilities, including but not limited to 24-hour facilities, day care, and home health.
- The NSHC urges the U.S. Congress to use the greater part of any surplus that may accrue for the purpose of retiring the national debt.

V. DEMOGRAPHICS

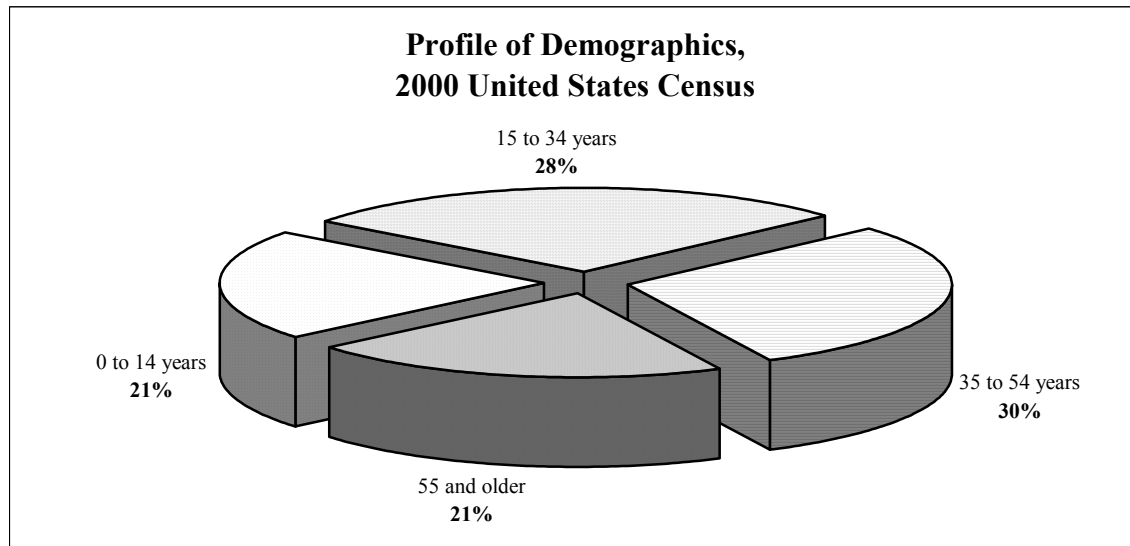
A. Introduction

Across America the population is aging. This is due, in part, to advances in medical technologies, and the aging of the “baby boomer” generation. The aging population trend has received extensive media coverage since the 2000 Census. Many demographers and social scientists predict that in the decades to come, there will be significant implications for the nation’s health, social, and economic institutions as a result of the aging population.

According to a U.S. Census Bureau report, “by the middle of the next century, it might be completely inaccurate to think of ourselves as a Nation of the young: there could be more persons who are elderly (65 or older) than young (14 or younger). In 1900, men and women aged 65 or older comprised 4 percent of the total population; by 2000 they accounted for

nearly 13 percent of the total population. The most rapidly growing segment is the ‘oldest old,’ age 85 and over.”¹ Chart A shows the total population distribution in the United States. Twenty-one percent of the population are 55 years of age and older. Consider again that 13 percent of the total population 65 and older in the United States represents 35 million senior citizens who are a strong force of economic and voting power.

CHART A



B. Statistics

1. United States

In 2000, 35 million people 65 years of age and over were counted in the United States according to the United States Census Bureau. This represents a 12 percent increase since 1990, when the Census Bureau counted 31.2 million older people. Among the older population, the number of people 85 years and over showed the highest percentage increase.

Following is a profile of the aging population. The profile gives an overview of the population that includes aging statistics, and male and female ratios to information on median senior income.

¹ U.S. Bureau of the Census, *Sixty-five Plus in the United States*, May 1995, Rev. Sept. 2000. <http://www.census.gov/socdemo/www/agebrief.html> (January 15, 2001).

TABLE A

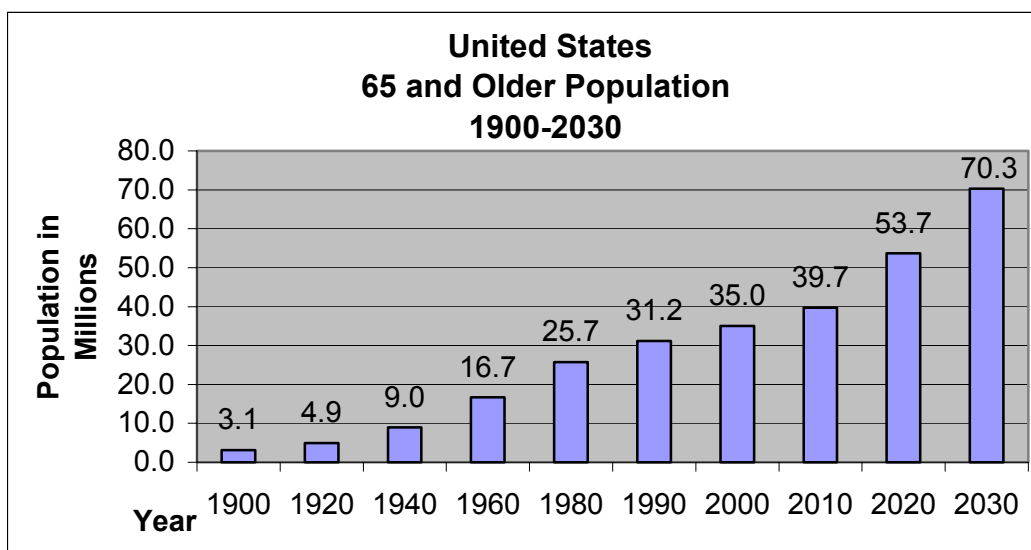
A Profile of Older Americans: 2001

- ❖ The older population (65 plus) numbered 35 million in 2000, an increase of 3.7 million or 12 percent since 1990.
- ❖ The number of Americans aged 45-64 – who will reach 65 over the next two decades - increased by 34 percent during this decade.
- ❖ About one in every eight, or 12.4 percent, of the population is an older American.
- ❖ Over 2 million persons celebrated their 65th birthday in 2000 (5,574 per day).
- ❖ Older women outnumber older men at 20.6 million older women to 14.4 million older men.
- ❖ About 30 percent (9.7 million) noninstitutionalized older persons live alone (7.4 million women, 2.4 million men).
- ❖ Half of older women age 75 plus live alone.
- ❖ By the year 2030, the older population will more than double to approximately 70 million.
- ❖ The 85 plus population is projected to increase from 4.2 million in 2000, to 8.9 million in 2030.
- ❖ Members of minority groups are projected to represent 25 percent of the older population in 2030, up from 16 percent in 2000.
- ❖ The median income of older persons in 2000 was \$19,168 for males and \$10,899 for females. Real median income (after adjusting for inflation) fell by -2.8 percent for men and by -3.6 percent for women since 1999.
- ❖ The Social Security Administration reported that the major sources of income for older people was:
 - Social Security (reported by 90 percent of older persons);
 - Income from assets (reported by 62 percent);
 - Public and private pensions (reported by 43 percent); and
 - Earnings (reported by 22 percent).
- ❖ About 3.4 million older persons lived below the poverty level in 2000. The poverty rate for persons 65 plus continued at a historically low rate of 10.2 percent. Another 2.2 million older adults were classified as “near poor” (income between poverty level and 125 percent of this level).

Source: Administration on Aging, U.S. Department Of Health and Human Services, <http://www.aoa.gov.aoa/stats/profile/2001/highlights.html> (2001).

The older population will continue to grow significantly in the future. According to the U.S. Census Bureau, there will be 70.3 million people aged 65 and older in the year 2030 (Chart B). That is more than twice the number of senior citizens in 2000. This significant increase in the population of senior citizens adds urgency to the imperative of finding ways to meet the needs of senior citizens.

CHART B

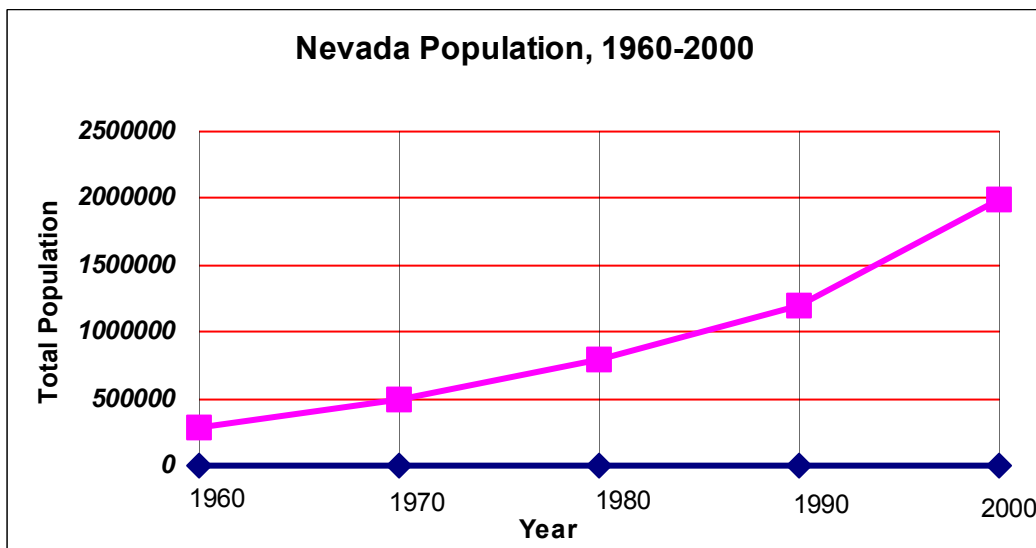


Source: U.S. Census Bureau, Table DP-1 Profile of General Demographic Characteristics, 2000

2. Nevada

In Nevada, the total population over the last ten years reached a total of 2 million people (see Chart C), representing an increase of 66.3 percent. This growth ranks Nevada number one in total population growth in the United States.

CHART C



Source: U.S. Census Bureau, Table DP-1 Profile of General Demographic Characteristics, Geographic Area: Nevada, 2000.

The older population increased in every state of the union; however, states in the West had the most growth in the older population. The State of Nevada ranked number one in the growth of the older population with a staggering 72 percent increase. The next highest increases were found in Alaska (60 percent), Arizona (39 percent), and New Mexico (30 percent). Other Western states that were affected by growth include Colorado, Utah, and Wyoming.

TABLE B

States Ranked by Rate of Older Population Growth, 1990-2000		
Rank	State	Percent Increase
1.	Nevada	71.5
2.	Alaska	59.6
3.	Arizona	39.5
4.	New Mexico	30.1
5.	Hawaii	28.5
6.	Utah	26.9
7.	Colorado	26.3
8.	Delaware	26.0
9.	South Carolina	22.3
10.	Wyoming	22.2

Source: Administration on Aging, U.S. Department Of Health and Human Services
Table DP-1, Profile of General Demographic Characteristics for the United States,
2000.

The aging of America moves us into a new phase of our national life. In the coming years, the aging population will have significant implications for the nation's health, social, and economic institutions. Politically, the 35 million senior citizens in the United States represent a strong voting voice and a force to be reckoned with. Taking into consideration the impact of the senior citizen population, the Nevada Silver Haired Legislative Forum seeks to be ahead of the trend by examining and acting upon issues of importance to aging persons in Nevada today. The recommendations within this report endeavor to meet some of the concerns of senior citizens in our state.

VI. DISCUSSION OF RECOMMENDATIONS

At its final meeting and work session on May 23, 2002, the Forum adopted 22 recommendations under the topics of affordable housing; care giving for senior citizens; elder abuse, neglect, and exploitation; funding of services for senior citizens; geriatric education; public utilities; medical malpractice insurance; the National Silver Haired Congress; prescription drug benefits; and services for senior citizens. These proposals are submitted for consideration by the 2003 Legislature based upon:

- Testimony received from subject matter experts on senior citizen issues;
- Testimony presented to the Forum at its public meetings;

- A review of written information and comments provided by members of the Forum from the public; and
- The experience and knowledge of the members of the Forum.

A. Affordable Housing

At the opening of the millennium, the nation faces a widening gap between the demand for affordable housing and the supply of it. The causes are varied including rising housing production costs in relation to family incomes, inadequate public subsidies, restrictive zoning practices, adoption of local regulations that discourage housing development, and loss of units from the supply of federally subsidized housing. The congressional Millennial Housing Commission released a report in May 2002 titled *Meeting Our Nation's Housing Challenge*. The report acknowledged the critical need of affordable housing for the elderly population, stating, "the inadequacy of supply [of affordable housing] increases dramatically as one moves down the ladder of family earnings."

The Forum commends the use of programs that create an incentive to build more affordable housing for senior citizens. One such program used in Nevada is the Low-Income Housing Tax Credit Program (LIHTCP). The LIHTCP is a federally administered program designed to help eliminate the funding gap in the creation of low-income housing projects. Federal tax credits are awarded on a competitive basis and provide equity financing for affordable housing projects. The program creates economic incentives to developers to produce low-income housing. Approximately \$3 million in tax credit is available annually in Nevada. Based on discussion concerning affordable housing, the following recommendation was adopted:

- **Include a statement in the report for the Nevada Silver Haired Legislative Forum to encourage Nevada's Housing Division, Department of Business and Industry, to develop programs that create an economic incentive for builders to produce low-income housing for senior citizens similar to the Low-Income Housing Tax Credit Program.**

B. Care Giving for Senior Citizens

In recent years, the care industry has seen the rapid emergence of paid in-home nonmedical care providers. The services these paid professional organizations offer include bathing and personal care, respite care, companionship, supervision, errand running, grocery shopping, and meal preparation. The growth in the industry has led to broad differences in regulations from state to state. Currently, in Nevada there is no regulation of the paid nonmedical care giving providers. In testimony given to the Forum, it was recommended that paid nonmedical care giving providers should be regulated through accreditation and overseen by the State Board of Health. Accreditation programs would ensure a basic quality of care for the elderly and disabled. Training would include knowledge of body mechanics, first aid, cardiopulmonary resuscitation (CPR), physical training, and nutrition. It was suggested that training be conducted for four hours and that it be accomplished within the first week of employment. One hour of review would be required every three months. Without accreditation, senior citizens receiving services are vulnerable to the risks of abuse, neglect, intimidation, and exploitation. Accreditation of providers could be accomplished by several

independent national accreditation organizations (see Appendix E). After careful consideration of testimony, the Forum made the following recommendation:

- **Urge the Legislative Commission and Governor Kenny C. Guinn to request legislation to amend Section 449.037 of *Nevada Revised Statutes* to require paid in-home nonmedical service care providers to the elderly to receive accreditation through a nationally recognized company such as Accreditation Commission for Health Care, Inc. The accreditation requirements would ensure that there are written policies and procedures for paid nonmedical service care providers, and that caregivers receive the necessary training and background checks.**

Nevada Administrative Code 449.196 requires that residential facility/assisted living caregivers receive not less than eight hours of training related to the providing for the needs of the residents of a residential facility. Although training was mandated, training programs were not developed. Basic parameters need to be established in training programs to accomplish the mandated hours. With an established program, both the resident of the facility and the industry would benefit from the standardization of training curriculums. The task force would study what the standards should be and make recommendations for minimal training within a residential facility (see Appendix F). The Forum discussed the training for residential caregivers and adopted the following recommendation:

- **Include a statement in the report for the Nevada Silver Haired Legislative Forum recommending that Governor Kenny C. Guinn establish a task force to study and develop a training program for facility and residential caregivers to the elderly or disabled. A training program would augment *Nevada Administrative Code* 449.196 by specifying a standard of education that caregivers would receive.**

C. Elder Abuse, Neglect, and Exploitation

There is great concern over the quality of care that the elderly are receiving in nursing homes. According to information obtained on the Medicare Web site, nearly 40 percent of all skilled nursing facilities have some incidence of abuse occurring.

In 1990, Congress instructed the U.S. Department of Health and Human Services to conduct a study of the appropriateness of establishing “minimum caregiver to resident ratios.” The second and final phase of the study was delivered to Congress in March 2002. The research provided compelling evidence that our nation’s nursing homes are dangerously understaffed and that Congress and state legislatures must take immediate steps to establish mandatory nurse staffing levels based on the findings.

Regulations that specifically address the staffing ratio in skilled nursing facilities in Nevada do not exist. The significance of having regulations in place would ensure a safe and secure environment for all residents of skilled nursing facilities. The Forum discussed the nursing staff shortage and how the shortage may affect a mandated staffing ratio. The Forum concluded from testimony provided, that without recognizing a standard for nursing homes, there is no incentive to reach that standard. Therefore the Forum adopted the following recommendation:

- **Urge the Legislative Commission and Governor Kenny C. Guinn to request legislation to require nursing homes to meet a minimum standard of nursing hours per resident per day. The proposed requirement of 3.2 nursing staff hours would include Registered Nurses, Licensed Practical Nurse/Licensed Vocational Nurses, and Certified Nursing Assistants.**

The current statutory definition of exploitation fails to achieve the protection that the law was originally designed to give the elderly population of Nevada. The definition requires that the person in a position of trust use deception, intimidation, or undue influence to obtain control of the assets of the senior citizen. This effectively excludes cases in which a trusted person is given control or possession of the assets in a lawful fashion and then the trusted person disposes of those assets for his or her own benefit, and not the older person's. Testimony from a representative of the Abuse and Neglect Detail, Las Vegas Metropolitan Police Department, suggested the following to clarify the definition of exploitation:

1. Any act taken by a person who has the trust and confidence of an older person or any use of the power of attorney or guardianship over an older person to obtain control over the older person's money, assets or property with the intent to permanently deprive the older person of the ownership, use, benefit, or possession of his money, assets or property; or
2. Having been entrusted with a fiduciary responsibility over an older person's money, assets, or property, any intentional misuse of that fiduciary responsibility, which results in the older person being permanently deprived of the ownership, use, benefit, or possession of his money, assets, or property.

Based on the testimony presented, the Forum adopted the following recommendation:

- **Urge the Legislative Commission and Governor Kenny C. Guinn to request legislation to amend subsection 2 of NRS 200.5092 and subsection 4(b) of NRS 41.1395 to modify the definition of "exploitation" to more effectively protect Nevada's senior population from financial exploitation.**

In NRS 433A.160 (see Appendix H), a mentally ill person does not include a person with Alzheimer's disease or other forms of dementia. The definition of a mentally ill person precludes admitting dementia patients to state mental health facilities on an emergency basis. Testimony revealed that this significant problem and loophole could be resolved by making an exclusion for allowing dementia patients on an emergency basis to be committed to a state mental health facility. The Forum, in consideration of this issue, made the following recommendation:

- **Urge the Legislative Commission and Governor Kenny C. Guinn to request legislation to amend the provisions of NRS 433A.160 to provide an emergency admission exemption of patients diagnosed with dementia in mental health facilities. Admission is not to exceed 72 hours.**

D. Funding of Services for Senior Citizens

In May 1997, Nevada joined a number of other states that initiated lawsuits in their individual state courts against the nation's leading tobacco manufacturers and tobacco trade groups. Following several months of negotiations, 46 states, including Nevada, signed a Master Settlement Agreement on November 23, 1998. Under the Agreement, each state was required to conclude the tobacco litigation pending in its own state court. On December 10, 1998, the parties agreed to the Consent Decree. Under the terms of the court-approved Consent Decree, Nevada's share of settlement funds is allocated as follows:

The funds provided to the State of Nevada under Section IX of the Agreement are to be held by the State with specific expenditures to be determined by the Governor and the Legislature through the normal appropriation process. It is the intent and recommendation of the parties to the Agreement that such funds be used for public health purposes only, including, but not limited to, State and local governmental entity health service programs, tobacco-related prevention and education programs, medical research, tobacco and substance abuse related health and education programs.

The Forum discussed reallocating a portion of the Tobacco Settlement funds to reestablish senior citizen programs that have been recently cut. An example of a program that has been cut is the nine-year-old Safe Return program. The program is a national identification and registration system that has returned more than 6,400 lost or wandering Alzheimer's patients to their families and caregivers nationwide. In 2002, the \$900,000 annual grant from the Department of Justice for the program was eliminated. Based on discussion, the Forum adopted the following recommendation:

- **Include a statement in the report for the Nevada Silver Haired Legislative Forum requesting the Legislative Commission and Governor Kenny C. Guinn review funding allocations available through the Tobacco Master Settlement Agreement to restore senior citizen programs and services that have been previously terminated.**

A report on nursing homes, prepared at the request of United States Representative Henry Waxman (D-California) found that over a two-year period from January 1, 1999, through January 1, 2001, all violations reported in nursing homes "had at least the potential to harm nursing home residents." Of the more than 17,000 nursing homes nationwide, 5,283 nursing homes had been cited for an abuse violation. This is the first comprehensive report to look at incidences of abuse by analyzing state inspection reports from all over the country.

According to the report, more than 1,600 of those homes with violations were considered serious enough to cause actual harm to residents or place residents in immediate danger of serious injury or death. The report states an additional 256 homes were cited for violations that resulted in death or serious injury.

Nursing home abuse and neglect has become widespread and is a growing epidemic. It is a serious problem affecting thousands of nursing home residents who are dependent on nursing homes for care. The Forum is of the opinion that in order to ascertain whether or not nursing homes are meeting the standard level of quality that is required by NRS, more investigators are needed in the field. Therefore, the Forum approved the following recommendation:

- **Include a statement in the report for the Nevada Silver Haired Legislative Forum recommending that additional funds be budgeted to the Bureau of Licensure and Certification, Department of Human Resources, enabling the Bureau to increase the number of investigators in the field monitoring the quality of care being provided to senior citizens in nursing homes.**

The members of the Forum discussed budget concerns for the 2003 Legislative Session. Funding is an issue for both sustaining senior citizen programs and possible future programs for senior citizens. To alleviate some of the funding woes, the Forum discussed various funding proposals. One suggestion for an alternative method of raising funds for senior citizen programs was a tax on fast food restaurants. In doing research, the Forum discovered that fast food restaurants are not defined as an industry group. The closest industry group to fast food restaurants is called “limited-service eating places.” The U.S. Census Bureau in *Economic Census* defines limited-service eating places as comprised of establishments primarily engaged in providing food services where patrons generally order or select items and pay before eating. In addition, most of the establishments do not have waiter/waitress service. After consideration of the information, the Forum recommends the following:

- **Urge the Legislative Commission and Governor Kenny C. Guinn to request legislation to impose a one-half percent senior citizen health excise tax on food sales from “limited-service eating places” to provide additional funding to support a prescription drug benefit under Nevada’s Senior Prescription Drug Program (Senior Rx) and other senior citizen programs.**

E. Geriatric Education

In February 2002, Dr. Charles A. Cefalu, Professor and Associate Chairman for Geriatric Program Development at Louisiana State University testified before the Senate Special Committee on Aging. He called on the U.S. Congress and the Administration to take immediate action to help ease the growing shortage of geriatricians, physicians who are specially trained to prevent and manage the unique and often multiple health problems of older adults. “The field of geriatrics is shrinking” he said, “just as the numbers of patients who require this specialized care is growing.”

Dr. Lawrence J. Weiss, Director, Sanford Center for Aging, University of Nevada, Reno, provided testimony to the Forum in which he reiterated there is a crisis in the availability of trained geriatric professionals. The crisis is compounded due to elderly patients not being able to provide the same level of income as patients with private insurance. There is no incentive for the medical professional to focus on geriatric medicine, despite the overwhelming need for such personnel. With the growth of the aging population, the Forum made the following recommendation:

- **Include a statement in the report for the Nevada Silver Haired Legislative Forum urging a requirement for all health care professionals to take geriatric training. In addition, the Forum recommends that geriatric training be included as a component of continuing education curricula of practicing physicians and nurses.**

F. Public Utilities

The Forum is concerned with the price volatility in the energy market. Many variables have exacerbated this volatility including California's flawed attempt to deregulate electricity, environmental issues, a lack of new power supplies, and alleged market manipulation by big corporations including Enron. The increase in rates affects the low-income, residential consumer the hardest. In an attempt to assure that utility rates are fairly decided, the Forum recommends the following three changes to NRS 703.030 and NRS 703.110.

- **Urge the Legislative Commission and Governor Kenny C. Guinn to request legislation to amend NRS 703.030 changing the effective date from October 1, 2003, to March 1, 2003. This change would increase from three to five the number of members of the Public Utilities Commission of Nevada (PUCN) seven months sooner than the law currently contemplates. In addition, this proposal would change the qualifications of members sooner than the law currently contemplates. (See Appendix I)**
- **Urge the Legislative Commission and Governor Kenny C. Guinn to request legislation to amend the provisions of NRS 703.030 to prohibit the appointment of a person to the PUCN if that person has a conflict of interest at the time of the appointment. In addition, any person appointed to the PUCN shall be required to take an oath declaring that his or her appointment does not constitute, nor will it result in a conflict of interest. (See Appendix I)**
- **Urge the Legislative Commission and Governor Kenny C. Guinn to request legislation to amend NRS 703.110 to require that if a majority of the PUCN commissioners are disqualified from hearing a case before the PUCN, the decision on that case may be postponed until the Governor appoints another commissioner. (See Appendix J)**

Across the country, various problems have plagued efforts in restructuring the electric industry. The shortage in the electric supply has resulted in exorbitant wholesale prices and rolling blackouts. With such price volatility, the Forum regards restructuring of the electric industry in Nevada to not be in the consumers' best interest. Therefore, the Forum made the following recommendation regarding the electrical power industry:

- **Include a statement in the report for the Nevada Silver Haired Legislative Forum to Governor Kenny C. Guinn urging that the electrical power industry in Nevada not be deregulated.**

G. Medical Malpractice Insurance

The Forum regards medical malpractice as one of the more important issues that the Legislature must tackle in the 2003 Session. The medical malpractice issue involves a variety of concerns that must be dealt with. These issues include the problem of rising medical malpractice premiums, a lack of competitive market for medical malpractice insurance, an increasing number of doctors quitting the practice of medicine in this state, and an inability of doctors to pass higher insurance costs on to their patients due to managed care and lower reimbursement rates. The Forum is committed to supporting the reform of the system thereby allowing for affordable and quality care for the residents of Nevada. With such a myriad of concerns involved in the medical malpractice issue, the Forum adopted the following recommendation and urges the Legislature to continue to examine every issue involved:

- **Include a statement in the report for the Nevada Silver Haired Legislative Forum urging the Nevada Legislature to continue to study all of the issues of medical malpractice and to take appropriate action to resolve this important issue in Nevada.**

The medical field in Nevada is in crisis, which affects all aspects of the market. Consumers are hurt with less access to care. Doctors are quitting high-risk practices in obstetrics and surgery because some private companies have refused to offer coverage in Nevada or they offer malpractice insurance at skyrocketing rates. Since September 2001, four insurance companies that offered physician coverage left Nevada due to escalating insurance costs.

Doctors in Mississippi, New York, Pennsylvania, West Virginia, and Texas have rallied at courthouses and state capitols in recent months. Pennsylvania passed tort reform measures this year. Nevada has stepped in to offer insurance coverage for physicians by creating the Nevada Essential Insurance Association (NEIA). This is only a short-term fix, and the Forum is of the opinion that something must be done legislatively. Therefore, the Forum recommends considering measures, including caps on jury awards, to lower medical malpractice premiums for Nevada physicians.

- **Include a statement in the report for the Nevada Silver Haired Legislative Forum urging the Legislature to reform tort actions to address the current medical malpractice insurance problem facing health care providers in Nevada. Include a statement of support of the tort reform provisions of legislation as in Assembly Bill 17 sponsored by Assemblyman John W. Marvel in the 2001 Legislative Session (this bill was not enacted). (See Appendix K)**

H. National Silver Haired Congress

The National Silver Haired Congress is an initiative that promotes support of issues involving older adults and intergenerational concerns. Their list of top ten resolutions include topic areas such as Social Security, Medicare, prescription drug program for senior citizens, Alzheimer's disease research, and geriatric training for medical staff. These topics are concerns of all senior citizens; therefore, the Forum is of the opinion that it is appropriate to

express support for the National Silver Haired Congress by adopting the following recommendation:

- **Send a letter on behalf of the Nevada Silver Haired Legislative Forum to the National Silver Haired Congress expressing support for the top ten resolutions of the National Silver Haired Congress. (See Appendix L)**

I. Prescription Drug Benefit

When the Medicare program was created in 1965, prescriptions drugs were a minor part of the health care system. Currently, Medicare suffers from an outdated benefits package in which many prescription costs are too high for senior citizens. This high cost of drugs limits access of medications to many patients. Medicare beneficiaries are denied low cost access to important medications because the existing plan of benefits, which remains fundamentally the same as that which was established when the program was created in 1965, excludes coverage for most prescription drugs. Members of the Forum feel that if Medicare were to be designed from the ground up today, prescription benefits, in some fashion, would be incorporated into the program. However, due to future cost concerns as the huge “baby boomer” generation begins to retire, many members of Congress are concerned about adding new costs to an already overburdened system.

The budget passed by Congress in 2001 anticipated that a prescription drug benefit program would be in place starting in 2003 with a \$300 billion cost over five years. To date, prescription drug legislation has yet to be enacted. To address this issue, the Forum adopted the following recommendation:

- **Include a statement in the report for the Nevada Silver Haired Legislative Forum recommending the Nevada Legislature send a resolution to the United States Congress urging them to take necessary action to amend Medicare to add a prescription drug benefit for all Medicare recipients. (See Appendix M)**

J. Services for Senior Citizens

The Sanford Center for Aging serves as a statewide resource for Nevada’s senior population and works closely with professionals, agencies, and organizations to increase awareness and understanding of the aging process. This requires the Center programs to reflect the diverse needs of senior citizens in densely populated cities and those in rural areas. The Center develops education in geriatrics and gerontology through interdisciplinary collaboration with faculty, staff, and students throughout the university’s colleges and schools, and is sponsored by the College of Human and Community Sciences and the University of Nevada School of Medicine. The Center administers the university’s Interdisciplinary Gerontology Curriculum Committee that is comprised of faculty members who review current offerings and develop new courses. Its statewide counterpart is the Geriatric Medical Advisory Committee that guides medical education and planning for students in the School of Medicine.

Current statistics rank Nevada 50th in the country in the number of geriatricians per 100,000 people. In an effort to improve this statistic, the Center sponsors the Nevada Geriatric Education Center (NGEC), which develops programs for educators and practitioners who deliver services and care to senior citizens. The NGEC emphasizes scientific research and academic scholarship to influence the quality of gerontology and geriatric education, health care, service delivery, and our basic understanding of the aging process.

The Sanford Center and the programs it sponsors currently have adequate but temporary financial support from the Task Force for the Fund for a Healthy Nevada (NRS 429.625) and other grants. Continued stable support from the Legislature would aid in funding both a geriatric faculty and a curriculum that incorporates geriatrics into the Nevada School of Medicine. The Forum is appreciative of the efforts of Dr. Weiss and his staff and adopted the following recommendation to address these issues:

- **Send a letter on behalf of the Nevada Silver Haired Legislative Forum to the Task Force for the Fund for a Healthy Nevada (NRS 439.625) in support of the work of the Office of Geriatric Medicine, Chronic Illness, and Disability, Sanford Center for Aging.**

More than 34 million Americans (12 percent of the U.S. population) are aged 65 and older. Within the United States, the size of the population over age 65 has soared during this century, increasing from 3 million in 1900, to 34.3 million today. Since 1940, the population of people over 65 has tripled and is projected to more than double again by 2050. Nevada leads the nation in the percentage of increase of older persons.

This trend will dramatically change the health care delivery system. The National Silver Haired Legislative Forum is committed to improving health care delivered to older adults by supporting the hiring of additional university faculty dedicated to geriatric training. To that end, the Forum made the following recommendation:

- **Include a statement in the report for the Nevada Silver Haired Legislative Forum recommending additional funding for the University of Nevada, School of Medicine, Reno, the Community College and the Nevada State College to allow for the hiring of additional faculty dedicated to teaching geriatrics.**

The Senior Rx program provides Nevada's senior citizens with insurance coverage for prescription medicine. Senior Rx is funded with a portion of Nevada's share of tobacco settlement funds and became law during the 1999 Legislative Session by the passage of Assembly Bill 474 (Chapter 538, *Statutes of Nevada*), which was approved unanimously. Senior Rx provides up to \$5,000 in benefits per person per year. Many of the most commonly prescribed drugs are available through Senior Rx for a copayment of \$10 per drug. The same drug, in some cases, could otherwise cost an uninsured senior ten times as much.

Senior Rx offers Nevada senior citizens the enhanced plan of benefit coverage. A qualifying senior would include a person aged 62 or older, a Nevada resident for at least one year, a person not eligible for full Medicaid with prescription benefits, and earns \$21,500 a year or

less. With the following recommendation, the Forum hopes that this program will be expanded to provide additional services to senior citizens.

- **Urge Governor Kenny C. Guinn to request legislation to amend Assembly Bill 474 (Chapter 538, *Statutes of Nevada 1999*) expanding the Senior Rx program to include the following health care services: vision care, dental care, hearing care, durable medical equipment, and medication management services.**

The Forum recognizes that 75 percent of senior citizens would prefer to stay in their homes with some form of assistance if they become ill or infirm. Grants are available to organizations that are interested in providing care and services to senior citizens to enable the senior citizen to remain independent. One such program is the Nevada Office of Community Based Services Grants (NOCBSG). The programs coordinated by NOCBSG offer funds to community based entities to provide personal assistance services to consumers whose needs for essential personal care cannot be met by alternative federal/state programs.

The purpose of these grants is to promote a philosophy of independent living, including a philosophy of consumer control, peer support, self-help, self-determination, equal access, and individual and system advocacy, to maximize the leadership, empowerment, independence, and productivity of individuals with significant disabilities, and to promote and maximize the integration and full inclusion of individuals with significant disabilities into the mainstream of American society. It is the intent of the Forum with the following recommendation to promote the use of these grants to foster innovative independent living models for senior citizens.

- **Include a statement in the report for the Nevada Silver Haired Legislative Forum encouraging nonprofit agencies to seek grant assistance for organizations that offer independent living services to senior citizens. Examples of these services include transportation services, household chores, minor home repairs, and yard work. Such grants should be contingent on the provision that those programs become self-funded (through private/public partnerships) and sustainable.**

VII. APPENDICES

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APPENDIX A

Nevada Revised Statutes 427A.320, “Creation”

NEVADA SILVER HAired LEGISLATIVE FORUM

NRS 427A.320 Creation. The Nevada silver haired legislative forum is hereby created to identify and act upon issues of importance to aging persons.

(Added to NRS by 1997, 2724; A 2001, 3026)

NRS 427A.330 Nomination, appointment and terms of members.

1. The legislative commission shall appoint to the Nevada silver haired legislative forum a number of members equal to the number of state senators. The persons appointed to the forum must be the persons nominated pursuant to this section. Each member of the senate shall, after consulting with the members of the assembly who reside within his senatorial district, nominate a person who meets the requirements for appointment to the forum set forth in NRS 427A.340.

2. Appointments to the Nevada silver haired legislative forum must be made by the legislative commission before December 1 of an odd-numbered year. The term of a member begins on December 1 of the odd-numbered year of appointment.

3. The members of the Nevada silver haired legislative forum from Clark County senatorial districts 2, 3, 4, 7 and 8, Washoe County senatorial districts 1 and 3, the Capital senatorial district and the Western Nevada senatorial district serve an initial term of 1 year. The members of the Nevada silver haired legislative forum from the remaining senatorial districts serve an initial term of 2 years. After the initial terms, each member serves a term of 2 years.

(Added to NRS by 1997, 2724; A 2001, 3026)

NRS 427A.340 Qualifications of members. A member of the Nevada silver haired legislative forum must:

1. Have been a resident of this state for 5 years immediately preceding his appointment;
2. Have been a registered voter in the senatorial district of the senator who nominated him for 3 years immediately preceding his appointment; and
3. Be at least 60 years of age on the day that he is appointed.

(Added to NRS by 1997, 2724; A 2001, 3027)

NRS 427A.350 Ex officio membership national silver haired congress. Members of the national silver haired congress from this state shall serve as ex officio members of the Nevada silver haired legislative forum. If a member of the national silver haired congress ceases to be a member of the national silver haired congress, the ex officio membership of that person in the Nevada silver haired legislative forum terminates. An ex officio member of the Nevada silver haired legislative forum has the same rights and responsibilities as the members who are appointed.

(Added to NRS by 1997, 2724)

NRS 427A.360 Vacancies in membership.

1. A position in the Nevada silver haired legislative forum becomes vacant upon:

- (a) The death or resignation of a member.
- (b) The illness of a member that prevents him from attending three consecutive meetings of the Nevada silver haired legislative forum.
- (c) The absence of a member for any reason from three consecutive meetings of the Nevada silver haired legislative forum.

2. If a vacancy occurs, the legislative commission shall appoint a person to serve the remainder of the unexpired term. The legislative commission may appoint a person whose membership in the national silver haired congress has ended to fill a vacancy in the Nevada silver haired legislative forum.

(Added to NRS by 1997, 2725; A 2001, 3027)

NRS 427A.370 Election, terms and duties of officers; assistance from legislative counsel bureau.

1. The Nevada silver haired legislative forum shall elect from among its members, to serve a term of 1 year:

- (a) A president, who shall conduct meetings and oversee the formation of committees as necessary to accomplish the purposes of the Nevada silver haired legislative forum.

(b) A vice president, who shall assist the president and conduct meetings of the Nevada silver haired legislative forum if the president is absent or otherwise unable to perform his duties.

(c) A secretary, who shall:

(1) Prepare and keep a record of meetings, including, without limitation, the date, time, place and purpose of every meeting; and

(2) At the first meeting every year of the Nevada silver haired legislative forum, prepare a list of the dates of the meetings that are scheduled for the year.

(d) A treasurer, who shall, with the assistance of the director of the legislative counsel bureau, administer any account established pursuant to NRS 427A.395.

2. The director of the legislative counsel bureau shall provide such persons as are necessary to assist the Nevada silver haired legislative forum in carrying out its duties.

(Added to NRS by 1997, 2725; A 2001, 3027)

NRS 427A.380 Public hearings. The Nevada silver haired legislative forum may, within the limits of legislative appropriations and any gifts, grants or donations received by the forum:

1. During the period in which the legislature is not in a regular session, hold three public hearings in three different areas of this state and may hold an additional public hearing in any area of this state to prepare the report authorized by NRS 427A.390.

2. Comply with chapter 241 of NRS.

(Added to NRS by 1997, 2725; A 2001, 3028)

NRS 427A.390 Powers. The Nevada silver haired legislative forum may:

1. Submit a report containing recommendations for legislative action to the legislative commission and the governor before July 1 of each even-numbered year.

2. Accept gifts, grants and donations that must be deposited in an account established pursuant to NRS 427A.395.

3. Adopt procedures to conduct meetings of the Nevada silver haired legislative forum and committees thereof. Those procedures may be changed upon approval of a majority vote of all members of the Nevada silver haired legislative forum who are present and voting.

(Added to NRS by 1997, 2725; A 2001, 3028)

NRS 427A.395 Duties concerning money received and expenses incurred.

1. All money received by the Nevada silver haired legislative forum must be deposited in a bank, credit union or other financial institution in this state and paid out on its order for its expenses.

2. All expenses incurred by the Nevada silver haired legislative forum in carrying out the provisions of NRS 427A.320 to 427A.400, inclusive, must be paid from an account established pursuant to subsection 1.

(Added to NRS by 2001, 3026)

NRS 427A.400 Compensation of members. Within the limits of legislative appropriations, and any gifts, grants and donations, each member of the Nevada silver haired legislative forum is entitled to receive for attendance at a meeting of the Nevada silver haired legislative forum or a committee thereof the per diem allowance and travel expenses provided for state officers and employees generally.

(Added to NRS by 1997, 2726; A 2001, 3028)

NRS 427A.410 Regulations. Repealed. (See chapter 588, Statutes of Nevada 2001, at page 3030.)

APPENDIX B

Senate Bill 489 (Chapter 560, *Statutes of Nevada 1997*)

CHAPTER 560

AN ACT relating to aging persons; requiring the creation of a Nevada silver haired legislative forum to identify and act upon issues of importance to aging persons; making an appropriation; and providing other matters properly relating thereto.

[Approved July 16, 1997]

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 427A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 11, inclusive, of this act.

Sec. 2. *The division shall establish the Nevada silver haired legislative forum to identify and act upon issues of importance to aging persons.*

Sec. 3. *1. The governor shall appoint 21 persons to the Nevada silver haired legislative forum, of whom not more than 11 may be members of the same political party. The governor shall appoint from each senatorial district a number of members equal to the number of state senators that represent the senatorial district.*

2. Appointments to the Nevada silver haired legislative forum must be made by the governor before December 1 of an odd-numbered year. The term of a member begins on December 1 of the odd-numbered year of appointment.

3. The members of the Nevada silver haired legislative forum from Clark County senatorial districts 2, 3, 4, 7 and 8, Washoe County senatorial districts 1 and 3, the Capital senatorial district and the Western Nevada senatorial district serve an initial term of 1 year. The eight members of the Nevada silver haired legislative forum from the remaining senatorial districts serve an initial term of 2 years. After the initial terms, each member serves a term of 2 years.

Sec. 4. *A member of the Nevada silver haired legislative forum must:*

1. Have been a resident of this state for 5 years immediately preceding his appointment;

2. Have been a registered voter in the senatorial district that he is to represent for 3 years immediately preceding his appointment; and

3. Be at least 60 years of age on the day that he is appointed.

Sec. 5. *Members of the national silver haired congress from this state shall serve as ex officio members of the Nevada silver haired legislative forum. If a member of the national silver haired congress ceases to be a member of the national silver haired congress, the ex officio membership of that person in the Nevada silver haired legislative forum terminates. An ex officio member of the Nevada silver haired legislative forum has the same rights and responsibilities as the members who are appointed.*

Sec. 6. *1. A position in the Nevada silver haired legislative forum becomes vacant upon:*

(a) The death or resignation of a member.

(b) *The illness of a member that prevents him from attending three consecutive meetings of the Nevada silver haired legislative forum.*

(c) *The absence of a member for any reason from three consecutive meetings of the Nevada silver haired legislative forum.*

2. *If a vacancy occurs, the governor shall appoint a person to serve the remainder of the unexpired term. The governor may appoint a person whose membership in the national silver haired congress has ended to fill a vacancy in the Nevada silver haired legislative forum.*

Sec. 7. *The Nevada silver haired legislative forum shall elect from among its members, to serve a term of 1 year:*

1. *A president, who shall conduct meetings and oversee the formation of committees as necessary to accomplish the purposes of the Nevada silver haired legislative forum.*

2. *A vice president, who shall assist the president and conduct meetings of the Nevada silver haired legislative forum if the president is absent or otherwise unable to perform his duties.*

3. *A secretary, who shall:*

(a) *Prepare and keep a record of meetings, including, without limitation, the date, time, place and purpose of every meeting; and*

(b) *At the first meeting every year of the Nevada silver haired legislative forum, prepare a list of the dates of the meetings that are scheduled for the year.*

4. *A treasurer, who shall prepare and keep a list of the expenses of the Nevada silver haired legislative forum to be sent to the division for payment.*

Sec. 8. *The Nevada silver haired legislative forum may:*

1. *Meet 1 day each month during the regular session of the legislature in the legislative building in Carson City.*

2. *Meet and hold public hearings at least 1 day during each of the months of June, July and August during each even-numbered year.*

3. *Comply with chapter 241 of NRS.*

Sec. 9. *The Nevada silver haired legislative forum may:*

1. *Submit a report containing topics for possible legislative action to the governor before September 1 of each even-numbered year.*

2. *Accept gifts, grants and donations that must be deposited in the state treasury for credit to the aging services division's gift account in the department of human resources' gift fund. A gift, grant or donation to the Nevada silver haired legislative forum may be expended only in carrying out the duties of the Nevada silver haired legislative forum.*

3. *Adopt procedures to conduct meetings of the Nevada silver haired legislative forum and committees thereof. These procedures may be changed upon approval of a majority vote of all members of the Nevada silver haired legislative forum who are present and voting.*

Sec. 10. *Within the limits of legislative appropriations, and any gifts, grants and donations:*

1. *The division shall pay the expenses of the Nevada silver haired legislative forum.*

2. *Each member of the Nevada silver haired legislative forum is entitled to receive for attendance at a meeting of the Nevada silver haired legislative*

forum or a committee thereof the per diem allowance and travel expenses provided for state officers and employees generally.

Sec. 11. *The division may adopt such regulations as are necessary to carry out the provisions of sections 2 to 11, inclusive, of this act.*

Sec. 12. 1. There is hereby appropriated from the state general fund to the aging services division of the department of human resources the sum of \$5,000 for the per diem allowance and travel expenses of members of the Nevada silver haired legislative forum. Each member may receive from this appropriation a maximum of 1 day of per diem allowance and travel expenses.

2. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 1999, and reverts to the state general fund as soon as all payments of money committed have been made.

Sec. 13. This act becomes effective on July 1, 1997.

APPENDIX C

Assembly Bill 195 (Chapter 588, *Statutes of Nevada 2001*)

CHAPTER 588

AN ACT relating to aging persons; authorizing the Nevada silver haired legislative forum to operate independently of the aging services division of the department of human resources; requiring the legislative commission to appoint the members of the Nevada silver haired legislative forum; revising the membership of the forum; authorizing a legislator to donate a certain amount of unspent campaign contributions to the forum; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 427A of NRS is hereby amended by adding thereto a new section to read as follows:

1. All money received by the Nevada silver haired legislative forum must be deposited in a bank, credit union or other financial institution in this state and paid out on its order for its expenses.

2. All expenses incurred by the Nevada silver haired legislative forum in carrying out the provisions of NRS 427A.320 to 427A.400, inclusive, must be paid from an account established pursuant to subsection 1.

Sec. 2. NRS 427A.320 is hereby amended to read as follows:

427A.320 The ~~{division shall establish the}~~ Nevada silver haired legislative forum *is hereby created* to identify and act upon issues of importance to aging persons.

Sec. 3. NRS 427A.330 is hereby amended to read as follows:

427A.330 1. The ~~{governor}~~ *legislative commission* shall appoint ~~{21 persons}~~ to the Nevada silver haired legislative forum ~~{, of whom not more than 11 may be members of the same political party. The governor shall appoint from each senatorial district}~~ a number of members equal to the number of state senators . ~~{that represent the senatorial district.}~~ *The persons appointed to the forum must be the persons nominated pursuant to this section. Each member of the senate shall, after consulting with the members of the assembly who reside within his senatorial district, nominate a person who meets the requirements for appointment to the forum set forth in NRS 427A.340.*

2. Appointments to the Nevada silver haired legislative forum must be made by the ~~{governor}~~ *legislative commission* before December 1 of an odd-numbered year. The term of a member begins on December 1 of the odd-numbered year of appointment.

3. The members of the Nevada silver haired legislative forum from Clark County senatorial districts 2, 3, 4, 7 and 8, Washoe County senatorial districts 1 and 3, the Capital senatorial district and the Western Nevada senatorial district serve an initial term of 1 year. The ~~{eight}~~ members of the Nevada silver haired legislative forum from the remaining senatorial districts serve an initial term of 2 years. After the initial terms, each member serves a term of 2 years.

Sec. 4. NRS 427A.340 is hereby amended to read as follows:

427A.340 A member of the Nevada silver haired legislative forum must:

1. Have been a resident of this state for 5 years immediately preceding his appointment;

2. Have been a registered voter in the senatorial district ~~{that he is to represent}~~ *of the senator who nominated him* for 3 years immediately preceding his appointment; and

3. Be at least 60 years of age on the day that he is appointed.

Sec. 5. NRS 427A.360 is hereby amended to read as follows:

427A.360 1. A position in the Nevada silver haired legislative forum becomes vacant upon:

(a) The death or resignation of a member.

(b) The illness of a member that prevents him from attending three consecutive meetings of the Nevada silver haired legislative forum.

(c) The absence of a member for any reason from three consecutive meetings of the Nevada silver haired legislative forum.

2. If a vacancy occurs, the ~~{governor}~~ *legislative commission* shall appoint a person to serve the remainder of the unexpired term. The ~~{governor}~~ *legislative commission* may appoint a person whose membership in the national silver haired congress has ended to fill a vacancy in the Nevada silver haired legislative forum.

Sec. 6. NRS 427A.370 is hereby amended to read as follows:

427A.370 1. The Nevada silver haired legislative forum shall elect from among its members, to serve a term of 1 year:

~~{1-}~~ (a) A president, who shall conduct meetings and oversee the formation of committees as necessary to accomplish the purposes of the Nevada silver haired legislative forum.

~~{2-}~~ (b) A vice president, who shall assist the president and conduct meetings of the Nevada silver haired legislative forum if the president is absent or otherwise unable to perform his duties.

~~{3-}~~ (c) A secretary, who shall:

~~{a)}~~ (1) Prepare and keep a record of meetings, including, without limitation, the date, time, place and purpose of every meeting; and

~~{b)}~~ (2) At the first meeting every year of the Nevada silver haired legislative forum, prepare a list of the dates of the meetings that are scheduled for the year.

~~{4-}~~ (d) A treasurer, who shall ~~{prepare and keep a list of the expenses of the Nevada silver haired legislative forum to be sent to the division for payment.}~~ , *with the assistance of the director of the legislative counsel bureau, administer any account established pursuant to section 1 of this act.*

2. *The director of the legislative counsel bureau shall provide such persons as are necessary to assist the Nevada silver haired legislative forum in carrying out its duties.*

Sec. 7. NRS 427A.380 is hereby amended to read as follows:

427A.380 The Nevada silver haired legislative forum may ~~{~~

~~1. Meet 1 day each month during the regular session of the legislature in the legislative building in Carson City.~~

~~2. Meet and hold public hearings at least 1 day during each of the months of June, July and August during each even numbered year.~~

~~3.} , within the limits of legislative appropriations and any gifts, grants or donations received by the forum:~~

1. *During the period in which the legislature is not in a regular session, hold three public hearings in three different areas of this state and may hold an additional public hearing in any area of this state to prepare the report authorized by NRS 427A.390.*

2. Comply with chapter 241 of NRS.

Sec. 8. NRS 427A.390 is hereby amended to read as follows:

427A.390 The Nevada silver haired legislative forum may:

1. Submit a report containing ~~topics for possible~~ *recommendations* for legislative action to the *legislative commission and the* governor before ~~September~~ *July* 1 of each even-numbered year.

2. Accept gifts, grants and donations that must be deposited in ~~the state treasury for credit to the aging services division's gift account in the department of human resources' gift fund. A gift, grant or donation to the Nevada silver haired legislative forum may be expended only in carrying out the duties of the Nevada silver haired legislative forum.~~ *an account established pursuant to section 1 of this act.*

3. Adopt procedures to conduct meetings of the Nevada silver haired legislative forum and committees thereof. ~~These~~ *Those* procedures may be changed upon approval of a majority vote of all members of the Nevada silver haired legislative forum who are present and voting.

Sec. 9. NRS 427A.400 is hereby amended to read as follows:

427A.400 Within the limits of legislative appropriations, and any gifts, grants and donations ~~to~~:

~~1. The division shall pay the expenses of the Nevada silver haired legislative forum.~~

~~2. Each~~ *each* member of the Nevada silver haired legislative forum is entitled to receive for attendance at a meeting of the Nevada silver haired legislative forum or a committee thereof the per diem allowance and travel expenses provided for state officers and employees generally.

Sec. 10. NRS 294A.160 is hereby amended to read as follows:

294A.160 1. It is unlawful for a candidate to spend money received as a campaign contribution for his personal use.

2. Every candidate for a state, district, county, city or township office at a primary, general, primary city, general city or special election who is elected to that office and received contributions that were not spent or committed for expenditure before the primary, general, primary city, general city or special election shall:

(a) Return the unspent money to contributors;

(b) Use the money in his next election or for the payment of other expenses related to public office or his campaign;

(c) Contribute the money to:

(1) The campaigns of other candidates for public office or for the payment of debts related to their campaigns;

(2) A political party;

(3) A person or group of persons advocating the passage or defeat of a question or group of questions on the ballot; or

(4) Any combination of persons or groups set forth in subparagraphs (1), (2) and (3);

(d) Donate the money to any tax-exempt nonprofit entity; or

(e) Dispose of the money in any combination of the methods provided in paragraphs (a) to (d), inclusive.

3. Every candidate for a state, district, county, city or township office at a primary, general, primary city, general city or special election who is not elected to that office and received contributions that were not spent or committed for expenditure before the primary, general, primary city, general city or special election shall, not later than the 15th day of the second month after his defeat:

(a) Return the unspent money to contributors;

(b) Contribute the money to:

(1) The campaigns of other candidates for public office or for the payment of debts related to their campaigns;

(2) A political party;

(3) A person or group of persons advocating the passage or defeat of a question or group of questions on the ballot; or

(4) Any combination of persons or groups set forth in subparagraphs (1), (2) and (3);

(c) Donate the money to any tax-exempt nonprofit entity; or

(d) Dispose of the money in any combination of the methods provided in paragraphs (a), (b) and (c).

4. Every candidate for a state, district, county, city or township office who is defeated at a primary or primary city election and received a contribution from a person in excess of \$5,000 shall, not later than the 15th day of the second month after his defeat, return any money in excess of \$5,000 to the contributor.

5. Every public officer who:

(a) Holds a state, district, county, city or township office;

(b) Does not run for reelection and is not a candidate for any other office; and

(c) Has contributions that are not spent or committed for expenditure remaining from a previous election, shall, not later than the 15th day of the second month after the expiration of his term of office, dispose of those contributions in the manner provided in subsection 3.

6. *In addition to the methods for disposing the unspent money set forth in subsections 2, 3 and 4, a legislator may donate not more than \$500 of that money to the Nevada silver haired legislative forum created pursuant to NRS 427A.320.*

7. The court shall, in addition to any penalty which may be imposed pursuant to NRS 294A.420, order the candidate or public officer to dispose of any remaining contributions in the manner provided in this section.

~~{7-}~~ 8. As used in this section, "contributions" include any interest and other income earned thereon.

Sec. 11. NRS 294A.180 is hereby amended to read as follows:

294A.180 1. Each candidate for a state, district, county, city or township office who is not elected to that office shall, not later than the 15th day of the second month after his defeat, file a report with the secretary of state stating the amount of contributions which he received for that campaign but did not spend and the disposition of those unspent contributions.

2. Each public officer who is elected to a state, district, county, city or township office shall file a report:

(a) Not later than the 15th day of the second month after his election, stating the amount of campaign contributions which he received but did not spend and the amount, if any, of those unspent contributions disposed of pursuant to ~~subsection~~ *subsections 2 and 6* of NRS 294A.160 as of the last day of the first month after his election;

(b) Not later than January 15th of each year of his term beginning the year after he filed the report required by paragraph (a), stating the amount, if any, of those unspent contributions disposed of pursuant to NRS 294A.160 during the period from the last date covered by his last report through December 31 of the immediately preceding year and the manner in which they were disposed of; and

(c) Not later than the 15th day of the second month after he no longer holds that office, stating the amount and disposition of any remaining unspent contributions.

3. The reports required by subsections 1 and 2 must be submitted on a form designed and provided by the secretary of state and signed by the candidate or public officer under penalty of perjury.

4. A public officer filing a report pursuant to subsection 2:

(a) Shall file the report with the officer with whom he filed his declaration of candidacy or acceptance of candidacy.

(b) May file the report by certified mail. If certified mail is used, the date of mailing shall be deemed the date of filing.

5. A county clerk who receives from a legislative or judicial officer, other than a justice of the peace or municipal judge, a report pursuant to subsection 4 shall file a copy of the report with the secretary of state within 10 working days after he receives the report.

Sec. 12. NRS 427A.410 is hereby repealed.

Sec. 13. On July 1, 2001, or as soon thereafter as practicable, the state controller shall draw his warrant, payable to the Nevada silver haired legislative forum, for the amount of money in the aging services division's gift account in the department of human resources' gift fund that was credited to that account pursuant to NRS 427A.390.

Sec. 14. The term of each member of the Nevada silver haired legislative forum who is incumbent on the effective date of this act, expires on November 30, 2001.

Sec. 15. This act becomes effective upon passage and approval.

APPENDIX D

Review of Previous Bylaws of the Nevada Silver Haired Legislative Forum

Review of Previous Bylaws of the Nevada Silver Haired Legislative Forum

According to information contained in the historical files of the Nevada Silver Haired Legislative Forum, the bylaws (dated February 8, 1999) were used by the Forum as operating procedures. Below is a comparison between the bylaws and the current provisions contained in Chapter 427A (“Services to Aging Persons”) of *Nevada Revised Statutes* (NRS) that relate to the establishment and operation of the Forum.

Previous Bylaws	Current Statutory Provisions
Article I of the bylaws provides that the name of the forum shall be the Nevada Silver Haired Legislative Forum.	NRS 427A.320 creates the Nevada Silver Haired Legislative Forum.
Article II states the purpose of the Forum.	NRS 427A.320 states the purpose of the Forum. Further, NRS 427A.390 enumerates certain powers of the Forum.
Article III addresses the qualifications of members of the Forum, the appointment process, terms of office for Forum members (including a limitation on the number of terms a member may serve), compensation of members, and related matters.	NRS 427A.340 specifies qualifications of members. NRS 427A.330 provides for the nomination, appointment, and terms of members. The statute does not provide for a limitation on the number of terms a member may serve. NRS 427A.350 provides that the Nevada delegates to the National Silver Haired Congress are ex-officio members of the Forum and have the same rights and responsibilities as the members who are appointed. NRS 427A.400 provides for compensation of members.
Article IV establishes officers of the Forum and specifies their respective duties. It also provides direction concerning the disposition of funds received by the Forum.	NRS 427A.370 provides for the election of officers and specifies their respective duties. NRS 427A.395 provides for the disposition of funds received by the Forum.
Article V addresses meetings of the Forum, requires that meetings be in compliance with Chapter 241 (“Meetings of State and Local Agencies”) of NRS, and establishes the number of members that constitute a quorum.	NRS 427A.380 provides for public hearings of the Forum and requires that any meetings of the Forum comply with Chapter 241 of NRS. NRS 241.015 defines a “quorum” as “a simple majority of the constituent membership of a public body or another proportion established by law.”
Article VI provides for the establishment of certain committees of the Forum and specifies their respective duties.	NRS 427A.370 provides that the president of the Forum shall oversee the formation of committees as necessary to accomplish the purposes of the Forum. In addition, NRS 427A.390 provides that the Forum may adopt procedures to conduct its meetings and meetings of any committees it may establish.
Article VII provides for filling of vacancies on the Forum.	NRS 427A.360 provides for filling of vacancies on the Forum.
Article VIII states that <i>Robert’s Rules of Order</i> shall govern the Forum in certain cases.	NRS 427A.390 provides that the Forum may adopt procedures to conduct its meetings and meetings of any committees it may establish.
Article IX provides for the amendment of the bylaws.	NRS 427A.390 provides that the Forum may adopt procedures to conduct its meetings and meetings of any committees it may establish.

APPENDIX E

Consideration for Silver Hair Forum Legislation, June 2, 2002

Considerations for Silver Hair Forum legislation

By Mimi Rodden

6-2-02

In response to the *Work Service Document* dated May 23, 2002, (page 2) you will find random concerns that might be addressed during your drafting process:

These accreditation requirements would apply to non-medical providers. I have not cross-referenced with Section 449.037 or any other NRS.

All caregivers serving in this capacity should have reasonably good health, be tested for TB, Hepatitis, have reasonable sight and hearing and strong enough to lift or move a patient.

Have some training in what is now called body mechanics, how to lift, rotate, reposition or move a patient.

Have some basic nutritional knowledge of food groups, reducing sugars and certain fats, always striving for a better diet.

Have some basic physical fitness training for home or bed bound clients.

Have some basic first aid. Know CPR, recognize choking, and be able to read a pulse, how to properly call 911 or other help. Know how to reach a supervisor immediately.

Communication is crucial. Basic English is still the goal. Caregivers must have some critical care communication skills, a good vocabulary and an understanding of common terms. Remembering to speak clearly and to look at either the client or the person in charge to make sure that the idea is understood. Serious problems may result if the caregiver does not understand the English language.

The thresholds must be firm and accomplished within the first week of employment. Perhaps four hours of training the first week and one hour of review every three months. Many of the people seeking these jobs come from other cultures. We will be investing in the future of health care wisely by working to improve the entry-level positions. Caregivers will be better able to serve the profession if we encourage and help them to improve their skills.

APPENDIX F

Nevada Administrative Code 449.196, “Qualifications of caregivers”

NEVADA ADMINISTRATIVE CODE: MEDICAL AND OTHER RELATED FACILITIES

NAC 449.196 Qualifications of caregivers. (NRS 449.037)

1. A caregiver of a residential facility must:
 - (a) Be at least 18 years of age;
 - (b) Be responsible, mature and have the personal qualities which will enable him to understand the problems of the aged and disabled;
 - (c) Understand the provisions of NAC 449.156 to 449.2766, inclusive, and sign a statement that he has read those provisions;
 - (d) Demonstrate the ability to read, write, speak and understand the English language;
 - (e) Possess the appropriate knowledge, skills and abilities to meet the needs of the residents of the facility; and
 - (f) Receive annually not less than 8 hours of training related to providing for the needs of the residents of a residential facility.
2. If a resident of a residential facility uses prosthetic devices or dental, vision or hearing aids, the caregivers employed by the facility must be knowledgeable of the use of those devices.
(Added to NAC by Bd. of Health by R003-97, eff. 10-30-97)

APPENDIX G

Request That Consideration be Given to Changing the Definition of
“Exploitation” as Used in *Nevada Revised Statutes* 200.5092(2)

Submitted by: Sandie Durgin, Supervisor, Abuse and Neglect Detail,
Las Vegas Metropolitan Police Department

This letter is to request that consideration be given to changing the definition of "Exploitation" as used in N.R.S. 200.5092(2).

This is the statute that makes it a crime to financially exploit a senior.

The current definition reads:

"Exploitation" means any act taken by a person who has the trust and confidence of an older person or any use of the power of attorney or guardianship of an older person to obtain control, through deception, intimidation or undue influence, over the older person's money, assets or property with the intention of permanently depriving the older person of the ownership, use, benefit or possession of his money, assets or property. As used in this subsection, "undue influence" does not include the normal influence that one member of a family has over another.'

I would like to request that the definition be changed to the following:

Exploitation means:

- A) Any act taken by a person who has the trust and confidence of an older person or any use of the power of attorney or guardianship over an older person to obtain control over the older person's money, assets or property with the intent to permanently deprive the older person of the ownership, use, benefit or possession of his money, assets or property; or
- B) Having been entrusted with a fiduciary responsibility over an older person's money, assets or property, any intentional misuse of that fiduciary responsibility which results in the older person being permanently deprived of the ownership, use, benefit or possession of his money, assets or property.

The reason I feel that this change is needed is because the current definition of exploitation fails to achieve the protection that the law was originally designed to give to the elderly population of the State of Nevada.

As I understand the purpose of the exploitation law, it was aimed at protecting those seniors who, for reasons often beyond their control, find themselves in a position where they are no longer fully able to handle and manage their own finances.

Once unable to adequately negotiate financial matters and protect themselves from being taken advantage of, many seniors turn to those closest to them and ask for help. They frequently hand over their income and assets to trusted family, friends or care givers so that someone will be able to manage their financial affairs on their behalf.

This may mean granting a power of attorney, adding a name to their bank accounts/property or simply giving someone permission to use their checks books, credit cards and ATM cards, but always with the overriding proviso that they use this

authority for the benefit of the senior.

Alternately the senior may have made prior arrangements in the event that they become unable to manage their affairs, such as a trust or living will with a family member or friend named as successor trustee.

The exploitation law appears to be designed to recognize these vulnerable situations that many seniors find themselves facing and offer them the protection of the criminal courts by making an abuse of this trust a crime.

However the definition given to the term "exploitation" fails to adequately fulfill that need.

The current definition requires that the person in a position of trust use *deception, intimidation or undue influence* to obtain control of the assets of the senior.

This effectively excludes all of the cases in which a trusted person is *given* control or possession of the assets belonging to the senior in a lawful fashion and then the trusted person simply disposes of those assets for their own benefit, depriving the senior of the ownership, use, benefit or possession of those assets.

I will cite two examples of cases that demonstrate why the current definition of "exploitation" fails to meet the needs of these vulnerable seniors and explain why the changes I have proposed would result in a more effective exploitation law.

Example: A senior finds himself becoming more and more confused with the management of his financial affairs. His adult son, whom he trusts, offers to help with balancing his check book and paying his bills. The senior accepts this offer and adds the sons name to his bank account to make this process easier. Everything seems to be going well for several months and slowly the senior allows the son to take over the responsibility of handling his finances and stops monitoring his statements or being involved in the daily chore of writing the checks and paying bills.

The son, who was always a person in a position of *trust and confidence*, has not used *deception, intimidation or undue influence* to obtain control over the seniors finances, but is now in a position of total control.

If he now starts to remove the seniors money from the account and spend it on his own needs without the knowledge of the senior he would appear, on the surface, to be exploiting the senior by abusing his position of trust. However he is not committing any exploitation under the current definition of "exploitation" because he did not obtain this control through *deception, intimidation or undue influence*.

By deleting the requirement that the accused person obtain their control of the seniors assets *through deception, intimidation or undue influence (as in paragraph A of the proposed definition)* this would ensure that this type of activity, which is a serious abuse of a position of trust, would be a crime of elder exploitation. The overriding issue that makes this activity seem exploitive is the intent to permanently deprive the senior of their assets. The fact that the son has ultimately used his position to permanently deprive the senior is the prima facia evidence of his intent.

The reason that I have proposed adding the second paragraph to the definition of "exploitation" is demonstrated below.

Example: A senior anticipates that one day she will not be able to manage her affairs so she creates a trust and places all of her assets into the trust. She is the trustee of her own trust but names her granddaughter as the successor trustee in the event that she becomes incapacitated due to physical or mental illness. This is fairly common with trusts. After several years she is diagnosed with Alzheimer's disease and quickly becomes incompetent to manage her finances. The granddaughter, as successor trustee, takes over this responsibility. The terms of the trust allow the granddaughter, as trustee, to manage the finances in any way she sees fit, but always for the benefit of the trustor, the senior. The granddaughter uses the access she has to the senior's estate to remove money and spend it on her own needs, ignoring the needs of her grandmother and her fiduciary responsibility towards her grandmother.

Once again this would appear, on the surface, to be exploitive. However this activity would not meet the requirements of the current definition of "exploitation" because the granddaughter did not act to obtain control over the seniors assets, she was appointed at the request of the senior by the terms of the trust. Also it would not be possible to show what her intention was at the time that she was given control over the assets. Under the current definition it is necessary to show that the accused acted and the intent to permanently deprive had already been formed.

Paragraph B of the proposed change would include cases where an individual is placed in a position of control and fiduciary responsibility and they then intentionally misuse their position to deprive the senior of the benefit of their assets.

By making this misuse an *intentional* act the proposed definition would still protect those people who make well-intentioned decisions as the manager of the assets, but those decision result in a loss to the senior. An example of this would be a decision to invest some of the seniors assets in an investment scheme that offers good returns but unfortunately fails, due to no fault of the trustee. Since the proposed definition would make the trustees actions a crime only if the trustee *intentionally misused* their position, a bad investment decision would not render the trustee liable to criminal charges under this law.

APPENDIX H

Nevada Revised Statutes 433A.160, “Procedure for admission”

NEVADA REVISED STATUTES: CHAPTER 433A

NRS 433A.160 Procedure for admission.

1. Except as otherwise provided in subsection 2, an application for the emergency admission of an allegedly mentally ill person for evaluation, observation and treatment may only be made by an accredited agent of the department, an officer authorized to make arrests in the State of Nevada or a physician, psychologist, marriage and family therapist, social worker or registered nurse. The agent, officer, physician, psychologist, marriage and family therapist, social worker or registered nurse may:

(a) Without a warrant:

(1) Take an allegedly mentally ill person into custody to apply for the emergency admission of the person for evaluation, observation and treatment; and

(2) Transport the allegedly mentally ill person to a public or private mental health facility or hospital for that purpose, or arrange for the person to be transported by:

(I) A local law enforcement agency;

(II) A system for the nonemergency medical transportation of persons whose operation is authorized by the transportation services authority; or

(III) If medically necessary, an ambulance service that holds a permit issued pursuant to the provisions of chapter 450B of NRS,

only if the agent, officer, physician, psychologist, marriage and family therapist, social worker or registered nurse has, based upon his personal observation of the allegedly mentally ill person, probable cause to believe that the person is a mentally ill person and, because of that illness, is likely to harm himself or others if allowed his liberty.

(b) Apply to a district court for an order requiring:

(1) Any peace officer to take an allegedly mentally ill person into custody to allow the applicant for the order to apply for the emergency admission of the allegedly mentally ill person for evaluation, observation and treatment; and

(2) Any agency, system or service described in subparagraph (2) of paragraph (a) to transport the allegedly mentally ill person to a public or private mental health facility or hospital for that purpose.

The district court may issue such an order only if it is satisfied that there is probable cause to believe that the allegedly mentally ill person is a mentally ill person and, because of that illness is likely to harm himself or others if allowed his liberty.

2. An application for the emergency admission of an allegedly mentally ill person for evaluation, observation and treatment may be made by a spouse, parent, adult child or legal guardian of the person. The spouse, parent, adult child or legal guardian and any other person who has a legitimate interest in the allegedly mentally ill person may apply to a district court for an order described in paragraph (b) of subsection 1.

3. The application for the emergency admission of an allegedly mentally ill person for evaluation, observation and treatment must reveal the circumstances under which the person was taken into custody and the reasons therefor.

4. As used in subsection 1, "an accredited agent of the department" means any person appointed or designated by the director of the department to take into custody and transport to a mental health facility pursuant to subsections 1 and 2 those persons in need of emergency admission.

5. Except as otherwise provided in this subsection, each person admitted to a public or private mental health facility or hospital under an emergency admission must be evaluated at the time of admission by a psychiatrist or a psychologist. If a psychiatrist or a psychologist is not available to conduct an evaluation at the time of admission, a physician may conduct the evaluation. Each such emergency admission must be approved by a psychiatrist.

(Added to NRS by 1975, 1603; A 1983, 506; 1985, 2269; 1989, 1759; 1997, 3494; 2001, 1017, 3042)

APPENDIX I

Nevada Revised Statutes 703.030, “Commissioners: Appointment; terms; qualifications. [Effective through September 30, 2003]”

Nevada Revised Statutes (NRS)

NRS 703.030 Commissioners: Appointment; terms; qualifications. [Effective through September 30, 2003.]

1. The commission consists of three commissioners appointed by the governor for terms of 4 years.
2. The governor shall appoint as members of the commission persons who have at least 2 years of experience in one or more of the following fields:

- (a) Accounting.
- (b) Business administration.
- (c) Finance or economics.
- (d) Administrative law.
- (e) Professional engineering.

3. Not more than two of the commissioners may be:

- (a) Members of the same political party.
- (b) From the same field of experience.

[Part 2:109:1919; A 1947, 29; 1953, 252]—(NRS A 1957, 331; 1983, 1308; 1997, 1881)

NRS 703.030 Commissioners: Appointment; terms; qualifications; vacancies. [Effective October 1, 2003.]

1. The commission consists of five commissioners appointed by the governor. After the initial terms, the term of each commissioner is 4 years.

2. The governor shall appoint:

- (a) One commissioner to represent the general public.
- (b) Four commissioners who have at least 2 years of experience in one or more of the following fields:
 - (1) Accounting.
 - (2) Business administration.
 - (3) Finance or economics.
 - (4) Administrative law.
 - (5) Professional engineering.

Not more than two of the commissioners appointed pursuant to this paragraph may be from the same field of experience.

3. Not more than three of the commissioners may be members of the same political party.

4. A vacancy on the commission must be filled for the remainder of the unexpired term in the same manner as the original appointment.

[Part 2:109:1919; A 1947, 29; 1953, 252]—(NRS A 1957, 331; 1983, 1308; 1997, 1881; 2001, 3237, effective October 1, 2003)

APPENDIX J

Nevada Revised Statutes 703.110, “Power of majority of commissioners;
exercise of power by one commissioner; hearings and meetings
conducted by commission must be open to public.
[Effective through September 30, 2003]”

Nevada Revised Statutes (NRS)

NRS 703.110 Power of majority of commissioners; exercise of power by one commissioner; hearings and meetings conducted by commission must be open to public. [Effective through September 30, 2003.]

1. The majority of the commissioners have full power to act in all matters within their jurisdiction.
2. If two commissioners are disqualified or if there are two vacancies within the commission, the remaining commissioner shall exercise all the powers of the commission.
3. Except as otherwise provided in this chapter, all hearings and meetings conducted by the commission must be open to the public.

[Part 2:109:1919; A 1947, 29; 1953, 252]—(NRS A 1957, 332; 1967, 1094; 1971, 656; 1973, 1036; 1979, 1108; 1983, 1308; 1989, 441; 1997, 1882)

NRS 703.110 Power of majority of commissioners; exercise of power by less than majority of commissioners; hearings and meetings of commission must be open to public. [Effective October 1, 2003.]

1. Except as otherwise provided in subsection 2, a majority of the commissioners has full power to act in all matters within the jurisdiction of the commission and shall exercise all the powers of the commission.
2. If a majority of the commissioners are disqualified or if there are vacancies within the offices of a majority of the commissioners, the remaining commissioners or, if only one commissioner is remaining, the remaining commissioner has full power to act in all matters within the jurisdiction of the commission and shall exercise all the powers of the commission.
3. Except as otherwise provided in this chapter, all hearings and meetings conducted by the commission must be open to the public.

[Part 2:109:1919; A 1947, 29; 1953, 252]—(NRS A 1957, 332; 1967, 1094; 1971, 656; 1973, 1036; 1979, 1108; 1983, 1308; 1989, 441; 1997, 1882; 2001, 3237, effective October 1, 2003)

APPENDIX K

Assembly Bill 17 of the 2001 Session

ASSEMBLY BILL NO. 17-ASSEMBLYMAN MARVEL

PREFILED JANUARY 11, 2001

Referred to Committee on Judiciary

SUMMARY—Makes various changes concerning tort actions. (BDR 3-29)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

EXPLANATION - Matter in *bolded italics* is new; matter between brackets ~~(omitted material)~~ is material to be omitted.

AN ACT relating to tort actions; requiring that damages awarded in certain actions be reduced by the amount of any benefit received from a collateral source; limiting the amount of noneconomic damages that may be awarded in certain actions; providing for periodic payments of future economic damages in certain actions; limiting attorney's fees in certain actions; extending the period of limitation for commencing an action for product liability; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 Section 1. Chapter 42 of NRS is hereby amended by adding thereto
2 the provisions set forth as sections 2, 3 and 4 of this act.
- 3 Sec. 2. 1. *In an action for damages for personal injury or*
4 *wrongful death in which the liability of the defendant is established or*
5 *admitted, the court shall, before the entry of judgment, hold a separate*
6 *hearing to determine if the plaintiff, as the result of the personal injury*
7 *or wrongful death, has received a benefit from a collateral source. If the*
8 *court determines that the plaintiff has received a benefit from a collateral*
9 *source, the court shall reduce the amount of damages, if any, awarded in*
10 *the action by the amount of the benefit.*
- 11 2. As used in this section and except as otherwise provided in
12 subsection 3, "benefit from a collateral source" means any money,
13 service or other benefit that is paid, provided or reimbursed, or is
14 reasonably likely to be paid, provided or reimbursed, to the plaintiff for
15 personal injury or wrongful death pursuant to:
- 16 (a) A state or federal act;
17 (b) A policy of insurance;

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1 (c) A contract or agreement of any group, organization, partnership
2 or corporation; or

3 (d) Any other publicly or privately funded program,
4 that provides benefits for sickness, physical injury, dental injury,
5 emotional injury, disability, accidents, loss of earnings or workers'
6 compensation.

7 3. A benefit from a collateral source does not include a benefit that is
8 received by the plaintiff pursuant to subsection 2 to the extent that the
9 provider of the benefit:

10 (a) Is entitled to recover the benefit from the plaintiff; or

11 (b) Is subrogated to the rights of the plaintiff, if the right of
12 subrogation is exercised by serving a notice of lien on the plaintiff before
13 the settlement of or the entry of judgment in the action. The plaintiff
14 shall provide notice of the commencement of the action to each provider
15 of benefits that holds a lien provided by statute.

16 Sec. 3. 1. In an action for damages for personal injury or
17 wrongful death that arises on or after October 1, 2001, the trier of fact
18 shall itemize, in the verdict, the award of damages to reflect the monetary
19 amount intended for:

20 (a) Past expenses for medical treatment, care or custody;

21 (b) Future expenses for medical treatment, care or custody;

22 (c) Past loss of earnings;

23 (d) Future loss of earnings;

24 (e) Noneconomic damages; and

25 (f) Other damages.

26 2. Except as otherwise provided in this section and NRS 41.035, in
27 an action for damages for personal injury or wrongful death, a judgment
28 for noneconomic damages must not exceed \$250,000.

29 3. If the action is tried before a jury, the court or a party to the action
30 shall not instruct or otherwise advise the jury concerning the limitation
31 on noneconomic damages set forth in subsection 2.

32 4. The limitation on noneconomic damages set forth in subsection 2
33 does not apply to a cause of action that arises from:

34 (a) Willful or reckless misconduct; or

35 (b) An act or omission which constitutes a felony.

36 5. As used in this section, "noneconomic damages" means damages
37 for pain and suffering, emotional distress, and loss of consortium or
38 companionship. The term does not include exemplary or punitive
39 damages.

40 Sec. 4. 1. If the trier of fact in an action for damages for personal
41 injury or wrongful death awards the plaintiff future economic damages,
42 the defendant shall pay the award of future economic damages, at the
43 election of the plaintiff:

44 (a) In a lump-sum payment that has been reduced to its present value
45 as determined by the trier of fact and approved by the court; or

46 (b) In an annuity or other appropriate financial instrument purchased
47 by the defendant to provide periodic payments to the plaintiff. The court
48 shall not reduce an award of future economic damages to its present

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1 value if the plaintiff elects to receive the award pursuant to this
2 paragraph.

3 2. If the plaintiff elects to receive an award of future economic
4 damages in an annuity or other appropriate financial instrument that
5 provides periodic payments:

6 (a) The plaintiff shall select the provider of the annuity or other
7 appropriate financial instrument.

8 (b) The court shall determine the duration of the period during which
9 the periodic payments are to be received.

10 (c) Each party, before the entry of judgment, shall submit to the court
11 a plan specifying the person who is to be the recipient of the periodic
12 payments, the schedule for the periodic payments and the amount of
13 each periodic payment.

14 (d) After reviewing the plans, the court shall specify in its judgment:

15 (1) The provider of the annuity or other appropriate financial
16 instrument;

17 (2) The duration of the period during which the periodic payments
18 are to be received;

19 (3) The person who is to be the recipient of the periodic payments;

20 (4) The schedule for the periodic payments; and

21 (5) The amount of each periodic payment.

22 (e) The court shall ensure that the total amount of the periodic
23 payments is equal to the total amount of the future economic damages
24 awarded by the trier of fact and approved by the court.

25 (f) The defendant or the defendant's insurer shall fund the annuity or
26 other appropriate financial instrument in full.

27 (g) Upon purchase of the annuity or other appropriate financial
28 instrument by the defendant or the defendant's insurer, the plaintiff
29 shall:

30 (1) Execute a satisfaction of judgment or a stipulation for dismissal
31 of the claim with prejudice; and

32 (2) Release forever the defendant and the defendant's insurer, if
33 any, from any obligation to make periodic payments pursuant to the
34 award.

35 3. If the plaintiff dies before the final periodic payment of the award
36 is made:

37 (a) The unpaid balance of the award for loss of future earnings
38 reverts to the estate of the plaintiff; and

39 (b) The unpaid balance of the award for future expenses for medical
40 treatment, care or custody reverts to the defendant or the defendant's
41 insurer.

42 4. As used in this section, "future economic damages" includes,
43 without limitation, damages for loss of future earnings and for future
44 expenses for medical treatment, care or custody.

45 Sec. 5. NRS 42.020 is hereby amended to read as follows:

46 42.020 1. ~~{Except as otherwise provided in subsection 2, in any}~~ In
47 an action for damages for personal injury or wrongful death caused by
48 medical malpractice, the court shall, in addition to any reduction in the
49 amount of damages required pursuant to section 2 of this act, reduce the

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1 amount of damages, if any, awarded in the action ~~{must be reduced}~~ by the
2 amount of any prior payment made by or on behalf of the ~~{provider of~~
3 ~~health care against whom the action is brought}~~ *defendant* to the injured
4 person or to the claimant to meet reasonable expenses ~~{of}~~ *for* medical
5 *treatment, care { } or custody, reasonable expenses for* other essential
6 goods or services, or reasonable living expenses.

7 2. ~~In any action described in subsection 1 in which liability for~~
8 ~~medical malpractice is established or admitted, the court shall, before the~~
9 ~~entry of judgment, hold a separate hearing to determine if any expenses~~
10 ~~incurred by the claimant for medical care, loss of income or other financial~~
11 ~~loss have been paid or reimbursed as a benefit from a collateral source. If~~
12 ~~the court determines that a claimant has received such a benefit, the court~~
13 ~~shall reduce the amount of damages, if any, awarded in the action by the~~
14 ~~amount of the benefit. The amount so reduced must not include any~~
15 ~~amount for which there is a right of subrogation to the rights of the~~
16 ~~claimant if the right of subrogation is exercised by serving a notice of lien~~
17 ~~on the claimant before the settlement of or the entry of judgment in the~~
18 ~~action. Notice of the action must be provided by the claimant to any~~
19 ~~statutory holder of a lien.~~

20 ~~3. If future economic damages are awarded in an action for medical~~
21 ~~malpractice, the award must be paid, at the election of the claimant:~~

22 ~~(a) In a lump sum which has been reduced to its present value as~~
23 ~~determined by the trier of fact and approved by the court; or~~

24 ~~(b) Subject to the provisions of subsection 5, by an annuity purchased to~~
25 ~~provide periodic payments.~~

26 ~~As used in this subsection, "future economic damages" includes damages~~
27 ~~for future medical treatment, care or custody, and loss of future earnings.~~

28 ~~4. If the claimant elects to receive periodic payments pursuant to~~
29 ~~paragraph (b) of subsection 3, the award must not be reduced to its present~~
30 ~~value. The amount of the periodic payments must be equal to the total~~
31 ~~amount of all future damages awarded by the trier of fact and approved by~~
32 ~~the court. The period for which the periodic payments must be made must~~
33 ~~be determined by the trier of fact and approved by the court. Before the~~
34 ~~entry of judgment, each party shall submit to the court a plan specifying the~~
35 ~~recipient of the payments, the amount of the payments and a schedule of~~
36 ~~periodic payments for the award. Upon receipt and review of the plans, the~~
37 ~~court shall specify in its judgment rendered in the action the recipient of~~
38 ~~the payments, the amount of the payments and a schedule of payments for~~
39 ~~the award.~~

40 ~~5. If an annuity is purchased pursuant to paragraph (b) of subsection 3,~~
41 ~~the claimant shall select the provider of the annuity. Upon purchase of the~~
42 ~~annuity, the claimant shall:~~

43 ~~(a) Execute a satisfaction of judgment or a stipulation for dismissal of~~
44 ~~the claim with prejudice; and~~

45 ~~(b) Release forever the defendant and his insurer, if any, from any~~
46 ~~obligation to make periodic payments pursuant to the award.~~

47 ~~6. As used in this section {:~~

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1 ~~(a) "Benefit from a collateral source" means any money, service or~~
2 ~~other benefit which is paid or provided or is reasonably likely to be paid or~~
3 ~~provided to a claimant for personal injury or wrongful death pursuant to:~~

4 ~~(1) A state or federal act which provides benefits for sickness,~~
5 ~~disability, accidents, loss of income or workers' compensation;~~

6 ~~(2) A policy of insurance which provides health benefits or coverage~~
7 ~~for loss of income;~~

8 ~~(3) A contract of any group, organization, partnership or corporation~~
9 ~~which provides, pays or reimburses the cost of medical, hospital or dental~~
10 ~~benefits or benefits for loss of income; or~~

11 ~~(4) Any other publicly or privately funded program which provides~~
12 ~~such benefits.~~

13 ~~(b) "Medical", "medical malpractice" has the meaning ascribed to it in~~
14 ~~NRS 41A.009.~~

15 **Sec. 6.** Chapter 7 of NRS is hereby amended by adding thereto a new
16 section to read as follows:

17 **1.** *An attorney shall not contract for or collect a fee contingent on*
18 *the amount of recovery for representing a person seeking damages in*
19 *connection with an action in tort in excess of:*

20 *(a) Forty percent of the first \$50,000 recovered;*

21 *(b) Thirty-three and one-third percent of the next \$50,000 recovered;*

22 *(c) Twenty-five percent of the next \$500,000 recovered; and*

23 *(d) Fifteen percent of the amount of recovery that exceeds \$600,000.*

24 **2.** *The limitations set forth in subsection 1 apply to all forms of*
25 *recovery, including, without limitation, settlement, arbitration and*
26 *judgment.*

27 **3.** *For the purposes of this section, "recovered" means the net sum*
28 *recovered by the plaintiff after deducting any disbursements or costs*
29 *incurred in connection with the prosecution or settlement of the claim.*
30 *Costs of medical care incurred by the plaintiff and general and*
31 *administrative expenses incurred by the office of the attorney are not*
32 *deductible disbursements or costs.*

33 **Sec. 7.** Chapter 11 of NRS is hereby amended by adding thereto a new
34 section to read as follows:

35 **1.** *An action for product liability must be commenced:*

36 *(a) Within 6 years after the date of the initial purchase of the product;*
37 *or*

38 *(b) Within 10 years after the date of the manufacture of the*
39 *product,*
40 *whichever is later.*

41 **2.** *As used in this section, "product liability" means liability for*
42 *damages because of personal injury, death, emotional harm,*
43 *consequential economic damage or damage to property, including,*
44 *without limitation, damages resulting from the loss of the use of property,*
45 *caused by the manufacture, design, importation, distribution, packaging,*
46 *labeling, lease or sale of a product.*

47 **Sec. 8.** NRS 11.190 is hereby amended to read as follows:

48 **11.190** Except as otherwise provided in NRS 125B.050 and 217.007,
49 **and section 7 of this act,** actions other than those for the recovery of real

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1 property, unless further limited by specific statute, may only be
2 commenced as follows:

3 1. Within 6 years:

4 (a) An action upon a judgment or decree of any court of the United
5 States, or of any state or territory within the United States, or the renewal
6 thereof.

7 (b) An action upon a contract, obligation or liability founded upon an
8 instrument in writing, except those mentioned in the preceding sections of
9 this chapter.

10 2. Within 4 years:

11 (a) An action on an open account for goods, wares and merchandise
12 sold and delivered.

13 (b) An action for any article charged on an account in a store.

14 (c) An action upon a contract, obligation or liability not founded upon
15 an instrument in writing.

16 3. Within 3 years:

17 (a) An action upon a liability created by statute, other than a penalty or
18 forfeiture.

19 (b) An action for waste or trespass of real property, but when the waste
20 or trespass is committed by means of underground works upon any mining
21 claim, the cause of action shall be deemed to accrue upon the discovery by
22 the aggrieved party of the facts constituting the waste or trespass.

23 (c) An action for taking, detaining or injuring personal property,
24 including actions for specific recovery thereof, but in all cases where the
25 subject of the action is a domestic animal usually included in the term
26 "livestock," which has a recorded mark or brand upon it at the time of its
27 loss, and which strays or is stolen from the true owner without his fault, the
28 statute does not begin to run against an action for the recovery of the
29 animal until the owner has actual knowledge of such facts as would put a
30 reasonable person upon inquiry as to the possession thereof by the
31 defendant.

32 (d) Except as otherwise provided in NRS 112.230 and 166.170, an
33 action for relief on the ground of fraud or mistake, but the cause of action
34 in such a case shall be deemed to accrue upon the discovery by the
35 aggrieved party of the facts constituting the fraud or mistake.

36 (e) An action pursuant to NRS 40.750 for damages sustained by a
37 financial institution because of its reliance on certain fraudulent conduct of
38 a borrower, but the cause of action in such a case shall be deemed to accrue
39 upon the discovery by the financial institution of the facts constituting the
40 concealment or false statement.

41 4. Within 2 years:

42 (a) An action against a sheriff, coroner or constable upon liability
43 incurred by acting in his official capacity and in virtue of his office, or by
44 the omission of an official duty, including the nonpayment of money
45 collected upon an execution.

46 (b) An action upon a statute for a penalty or forfeiture, where the action
47 is given to a person or the state, or both, except when the statute imposing
48 it prescribes a different limitation.

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1 (c) An action for libel, slander, assault, battery, false imprisonment or
2 seduction.

3 (d) An action against a sheriff or other officer for the escape of a
4 prisoner arrested or imprisoned on civil process.

5 (e) Except as otherwise provided in NRS 11.215, an action to recover
6 damages for injuries to a person or for the death of a person caused by the
7 wrongful act or neglect of another. The provisions of this paragraph
8 relating to an action to recover damages for injuries to a person apply only
9 to causes of action which accrue after March 20, 1951.

10 5. Within 1 year:

11 (a) An action against an officer, or officer de facto, to recover goods,
12 wares, merchandise or other property seized by the officer in his official
13 capacity ~~as~~ as tax collector, or to recover the price or value of goods,
14 wares, merchandise or other personal property so seized, or for damages
15 for the seizure, detention or sale of, or injury to, goods, wares, merchandise
16 or other personal property seized, or for damages done to any person or
17 property in making the seizure.

18 (b) An action against an officer, or officer de facto, for money paid to
19 the officer under protest, or seized by the officer in his official capacity ~~as~~
20 as a collector of taxes, and which, it is claimed, ought to be refunded.

21 Sec. 9. 1. Sections 2 to 6, inclusive, of this act apply only to an
22 action that is filed on or after October 1, 2001.

23 2. Sections 7 and 8 of this act apply only to a cause of action that
24 accrues on or after October 1, 2001.

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APPENDIX L

Top Ten Resolutions Adopted by the National Silver Haired Congress

TOP TEN RESOLUTIONS ADOPTED BY THE
NATIONAL SILVER HAired CONGRESS

1. Providing a prescription drug benefit through Medicare;
2. Geriatric medical education;
3. Retain Social Security as a guaranteed benefit;
4. Alzheimer's victims and caregivers face a crisis; increased funding;
5. Long-term care at home funding;
6. Protect Social Security and Medicare funds;
7. National background checks and registry for caregivers;
8. Medicare prescription drugs: costs and coverage;
9. Tax incentives for long-term care insurance; and
10. Social Security related to surviving spouses.

APPENDIX M

Resolution—Providing a Prescription Drug Benefit Through Medicare

**RESOLUTION – PROVIDING A PRESCRIPTION
DRUG BENEFIT THROUGH MEDICARE**

WHEREAS, modern medicine places an ever-increasing reliance on drug remedial treatment, and the increasing cost for such treatment places an enormous financial burden on society and impels many patients in need of drug remedial treatment to withdraw from drug therapies prescribed by their physician; and

WHEREAS, a study prepared by the University of Minnesota's Prime Institute projects that the elderly will pay a staggering \$113.6 billion at the pharmacy in 2010, a 165 percent increase over 2000 spending; and

WHEREAS, senior citizens are facing an emerging crisis, the outcome of two converging trends — older Americans' growing reliance on prescription drugs and the mounting cost of those medications;

NOW THEREFORE, BE IT RESOLVED THAT the Nevada Legislature urges the United States Congress to take necessary action to amend Medicare and add a prescription drug benefit for all Medicare recipients.

Submitted by Thelma Clark, Member, Nevada Silver Haired Legislative Forum